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F. N. J., F. D. C. 23101-23200

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U. S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23101-23200

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings which were terminated with the entry of default or consent decrees of condemnation and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms or individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *January 24, 1957.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23101-23200**

Adulteration, Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which had died otherwise than by slaughter; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality, or to make it appear better or of greater value than it was; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (b), the article was offered for sale under the name of another food; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23101. Bread. (F. D. C. No. 38117. S. Nos. 18-209/10 M.)

INFORMATION FILED: 7-19-55, Dist. N. J., against Lazzara Products, Inc., Paterson, N. J., and Joseph A. Lazzara, vice president.

SHIPPED: 2-23-55, from New Jersey to New York.

LABEL IN PART: (Pkg) "Lazzara's Tasty Crust Home Made Enriched Loaf" or "Lazzara's Enriched Tasty Crust Bread Spoletoni."

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty—by corporation; nolo contendere—by individual.

DISPOSITION: 4-20-56. Corporation fined \$500 on one count, with imposition of sentence suspended on remaining count; individual fined \$250 on one count and placed on probation for 5 years on the other count.

23102. Cookies and flour. (F. D. C. No. 38551. S. Nos. 16-435 M, 24-745 M.)

INFORMATION FILED: 11-30-55, W. Dist. Wash., against American Biscuit Co., Div. of Weston Biscuit Co., Inc., Tacoma, Wash.

ALLEGED VIOLATION: Between 6-14-55 and 8-12-55, while a quantity of yellow corn flour was being held for sale after shipment in interstate commerce, the defendant caused the article to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

The information alleged also that, on 4-18-55, the defendant shipped adulterated cookies from Washington to Oregon.

LABEL IN PART: (Pkg.) "Eclairs ABC 14 oz. Net Weight American Biscuit Company Tacoma - Washington."

CHARGE: 402 (a) (3)—contained rodent hairs and rodent excreta; and 402 (a) (4)—prepared or held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-1-56. \$1,000 fine, plus costs.

CORNMEAL**23103. Cornmeal.** (F. D. C. No. 38916. S. No. 32-532 M.)

QUANTITY: 10 100-lb. bags at Philadelphia, Pa.

SHIPPED: 8-12-55 and 10-3-55, from Nappanee, Ind.

LIBELED: 1-17-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 2-15-56. Default—destruction.

FLOUR***23104. Flour.** (F. D. C. No. 39013. S. No. 31-289 M.)

QUANTITY: 371 100-lb. bags, 10 50-lb. bags, 823 25-lb. bags, and 30 5-lb. bags at Cincinnati, Ohio, in possession of Central Sales Co.

SHIPPED: On various dates, from outside the State of Ohio.

LIBELED: 3-29-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-19-56. Consent—claimed by Central Sales Co. and denatured.

23105. Flour. (F. D. C. No. 38926. S. No. 27-829 M.)

QUANTITY: 35 50-lb. bags at Morganton, N. C., in possession of Economy Wholesale Co.

SHIPPED: 11-1-55, from Johnson City, Tenn.

LIBELED: 1-24-56, W. Dist. N. C.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-12-56. Default—destruction.

23106. Flour. (F. D. C. No. 38991. S. No. 49-424 M.)

QUANTITY: 15 100-lb. bags at Worcester, Mass., in possession of Quarfoth & Son Baking Co.

*See also Nos. 23102, 23114.

SHIPPED: 12-20-55, from Red Wing, Minn.

LIBELED: 3-14-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-23-56. Default—destruction.

23107. Rice flour and cocoa powder. (F. D. C. No. 38690. S. Nos. 16-929 M, 16-933 M.)

QUANTITY: 8 100-lb. bags of rice flour and 20 100-lb. bags of cocoa powder at Richmond, Va.

SHIPPED: Between 11-12-54 and 8-3-55, from Indianapolis, Ind., Camden, N. J., and Memphis, Tenn.

LIBELED: On or about 11-17-55, E. Dist. Va.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-18-56. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

23108. Barley. (F. D. C. No. 39097. S. No. 40-381 M.)

QUANTITY: 95,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-12-56, from Courtenay, N. Dak., by Courtenay Farmers Co-op. Association.

LIBELED: 3-26-56, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley has been prescribed by regulations.

DISPOSITION: 4-3-56. Consent—claimed by Courtenay Farmers Co-op. Association. Segregated, 18,610 lbs. destroyed.

23109. Unpopped popcorn. (F. D. C. No. 38977. S. No. 49-423 M.)

QUANTITY: 191 cases, 12 2-lb. bags each, at Boston, Mass.

SHIPPED: 11-18-55, from Middlebury, Ind.

LIBELED: 3-7-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 4-16-56. Default—consumption by animals.

23110. Unpopped popcorn. (F. D. C. No. 38849. S. No. 40-518 M.)

QUANTITY: 338 5-lb. bags at Minneapolis, Minn.

SHIPPED: 1-5-56, from Sioux City, Iowa, by Robb-Ross Co.

LABEL IN PART: (Bag) "Robb-Ross Brand * * * Hybrid Pop Corn."

LIBELED: 2-14-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta, rodent urine, rodent-gnawed kernels, insect parts, and insect-damaged kernels when shipped.

DISPOSITION: 4-5-56. Default—consumption by animals.

23111. Unpopped popcorn. (F. D. C. No. 39080. S. No. 26-675 M.)

QUANTITY: 109 5-lb. bags at Minneapolis, Minn.

SHIPPED: 1-5-56, from Sioux City, Iowa, by Robb-Ross Co.

LABEL IN PART: (Bag) "Robb-Ross Brand Hybrid Pop Corn."

LIBELED: 3-8-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta, rodent-gnawed kernels, and insect-damaged kernels when shipped.

DISPOSITION: 5-11-56. Default—consumption by animals.

23112. Unpopped popcorn. (F. D. C. No. 39026. S. No. 23-500 M.)

QUANTITY: 99 cases, 24 10-oz. cans each, at Somerville, Mass.

SHIPPED: 2-2-56, from Richwood, Ohio, by E. B. Hostetter Co.

LIBELED: 4-6-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 5-14-56. Default—destruction.

23113. Unpopped popcorn. (F. D. C. No. 39088. S. No. 2-117 M.)

QUANTITY: 25 cases, 24 10-oz. cans each, at Roanoke, Va.

SHIPPED: 2-6-56, from Richwood, Ohio, by E. B. Hostetter Co.

LIBELED: On or about 3-26-56, W. Dist. Va.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 5-1-56. Default—consumption by animals.

23114. Rice and flour. (F. D. C. No. 38669. S. Nos. 35-742/4 M.)

QUANTITY: 248 25-lb. bags of rice and 315 100-lb. bags and 139 50-lb. bags of flour at Chicago, Ill., in possession of John Sexton & Co.

SHIPPED: Between 6-2-55 and 9-10-55, from Houston, Tex., and Abilene and Newton, Kans.

LIBELED: 11-7-55, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-1-55. Consent—claimed by John Sexton & Co. Segregated, 425 lbs. of rice and 8,550 lbs. of flour destroyed.

23115. Rice. (F. D. C. No. 38664. S. Nos. 29-434/5 M.)

QUANTITY: 354 100-lb. bags at New York, N. Y.

SHIPPED: 1-10-54 and 5-20-55, from Crowley and Gueydan, La.

LIBELED: 11-7-55, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-25-55. Consent—claimed by Connell Rice & Commission Co., Inc., New York, N. Y. Segregated, 348 lbs. denatured.

23316. Rice. (F. D. C. No. 38930. S. Nos. 40-716/7 M.)

QUANTITY: 146 100-lb. bags at Minneapolis, Minn., in possession of Peking Food Products Co.

SHIPPED: 10-6-55 and 10-11-55, from De Witt, Ark., and Houston, Tex.

LIBELED: 1-31-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-5-56. Default—denatured for use as animal feed.

23117. Rice and unshelled walnuts. (F. D. C. No. 38742. S. Nos. 25-797 M, 40-340/1 M.)

QUANTITY: 17 100-lb. bags of rice and 12 25-lb. bags of unshelled walnuts at Stillwater, Minn., in possession of Minnesota Mercantile Co.

SHIPPED: Between 9-13-55 and 11-9-55, from Stuttgart, Ark., Los Angeles, Calif., and Memphis, Tenn.

LIBELED: 12-10-55, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 2-3-56. Default—destruction.

23118. Wheat. (F. D. C. No. 39066. S. Nos. 37-365/6 M.)

QUANTITY: 1,066 bu. at Clifton, N. J.

SHIPPED: 4-21-56, from Caledonia, N. Y., by John Ball & Co.

LIBELED: 5-4-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained rodent and other excreta when shipped.

DISPOSITION: 5-16-56. Consent—claimed by John Ball & Co. and denatured for use as animal feed.

23119. Wheat. (F. D. C. No. 39112. S. No. 40-924 M.)

QUANTITY: 111,600 lbs. at Minneapolis, Minn.

SHIPPED: 3-28-56, from Zahl, N. Dak., by Zahl Farmers Union Elevator Co.

LIBELED: 4-18-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained musty wheat when shipped.

DISPOSITION: 4-30-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated, 47,290 lbs. denatured for use as animal feed.

23120. Wheat. (F. D. C. No. 39104. S. No. 26-540 M.)

QUANTITY: 102,590 lbs. at Minneapolis, Minn.

SHIPPED: 3-16-56, from Kenaston, N. Dak., by Peavey Elevators.

LIBELED: 4-4-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 4-17-56. Consent—claimed by F. H. Peavey & Co., Minneapolis, Minn., and denatured for use as animal feed.

23121. Wheat. (F. D. C. No. 39096. S. No. 41-061 M.)

QUANTITY: 91,800 lbs. at St. Louis Park, Minn.

SHIPPED: 3-5-56, from Regent, N. Dak., by Regent Co-op. Equity Exchange.

LIBELED: 3-26-56, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 4-5-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn., and denatured for use as seed wheat.

23122. Sweet dough base. (F. D. C. No. 38788. S. No. 9-294 M.)

QUANTITY: 206 100-lb. bags at Los Angeles, Calif.

SHIPPED: 9-30-55, from Bonner Springs, Kans., by Famous Cereals Co.

LABEL IN PART: (Bag) "Sweet Dough Base * * * Special."

LIBELED: 12-8-55, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-18-56. Default—destruction.

CONFECTIONERY

23123. Candy. (F. D. C. No. 38136. S. Nos. 29-290 M, 29-293 M.)

INFORMATION FILED: 9-6-55, E. Dist. N. Y., against Concord Confectionery Corp., Brooklyn, N. Y.

SHIPPED: 6-3-55 and 6-15-55, from New York to New Jersey.

LABEL IN PART: (Pkg.) "Concord Candies Net Wt. 11 Oz. [or "2¼ Oz."]."

CHARGE: 402 (a) (3)—contained pieces of paper, wood splinters, broom straws, and wood fibers; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-12-56. \$2,000 fine.

23124. Candy. (F. D. C. No. 38716. S. No. 36-902 M.)

QUANTITY: 10 cartons, 124 7/8-oz. rolls each, at New York, N. Y.

SHIPPED: 10-4-54, from Holland.

LIBELED: 12-5-55, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-13-56. Default—destruction.

23125. Marshmallow creme. (F. D. C. No. 38105. S. No. 9-730 M.)

QUANTITY: 394 cases, 12 8-oz. jars each, at Los Angeles, Calif.

SHIPPED: 6-24-55 and 6-25-55, from St. Louis, Mo., by Hipolite Co.

LABEL IN PART: "Hip-O-Lite Original * * * Marshmallow Creme."

LIBELED: 8-2-55, S. Dist. Calif.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-25-55. Consent—destruction.

DAIRY PRODUCTS

BUTTER

23126. Butter. (F. D. C. No. 37125. S. Nos. 76-754 L, 76-766 L.)

QUANTITY: 50 cartons, 32 1-lb prints each, at Hamden, Conn.

SHIPPED: 7-16-54 and 7-30-54, from Omaha, Nebr., by Fairmont Foods Co.

LABEL IN PART: (Print) "Blue Ribbon Brand Butter Churned From Pasteurized Cream."

RESULTS OF INVESTIGATION: Examination showed that the butter was prepared from decomposed cream.

LIBELED: 8-20-54, Dist. Conn.

CHARGE: 402 (a) (3)—contained decomposed substance when shipped.

DISPOSITION: 1-20-55. Consent—claimed by Fairmont Foods Co. Converted to butter oil.

CHEESE

23127. Cheddar cheese. (F. D. C. No. 39074. S. No. 34-223 M.)

QUANTITY: 110 11-lb. cartons at Clinton, Mo.

SHIPPED: 4-13-56, from Yates Center, Kans., by Woodson Cheese Co.

LABEL IN PART: (Carton) "Apr 6, 1956 Cheddar Cheese Made From Whole Pasteurized Milk."

LIBELED: 5-11-56, W. Dist. Mo.

CHARGE: 403 (a)—the label statement "Made From * * * Pasteurized Milk" was false and misleading since the article had not been made from pasteurized milk; and 403 (g) (1)—the article, when shipped, failed to conform to the definition and standard of identity for cheddar cheese since the milk used in the preparation of the article was not pasteurized and the cheese had not been cured at a temperature of 35° F. for a period of 60 days, as required by regulations.

DISPOSITION: 6-25-56. Default—delivered to a public institution, for consumption by the inmates.

23128. Longhorn cheese. (F. D. C. No. 39045. S. No. 46-017 M.)

QUANTITY: 134 longhorns weighing a total of approximately 1,815 lbs. at Manheim, Pa.

SHIPPED: 3-31-56, from Warsaw, Ohio, by Warsaw Cheese Co.

LABEL IN PART: (Box) "Mar 30, 1956 White Colby Cheese Rindless 13½ * * * Warsaw Brand Longhorn Colby Cheese made from unpasteurized milk. For completion of curing and proper labeling, or for labeling as Colby Cheese for manufacturing."

LIBELED: 4-24-56, E. Dist. Pa.

CHARGE: 403 (g) (1)—the article, when shipped, failed to conform to the definition and standard of identity for colby cheese since the milk used in the preparation of the article was not pasteurized and the cheese had not been cured at a temperature of 35° F. for a period of 60 days, as required by regulations.

DISPOSITION: 5-24-56. Consent—claimed by Mahlon Herman, t/a Herman Cheese, Manheim, Pa. The article was satisfactorily reconditioned.

EGGS

23129. Frozen eggs. (F. D. C. No. 39105. S. No. 22-065 M.)

QUANTITY: 305 30-lb. cans at Pittsburgh, Pa.

SHIPPED: 3-13-56, from St. Joseph, Mo., by Banquet Canning Co.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Mixed Whites & Yolks Distributed By F. M. Stamper Co. Moberly, Mo."

LIBELED: 4-5-56, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 5-14-56. Consent—claimed by F. M. Stamper Co., St. Louis, Mo. Segregated, 115 30-lb cans denatured.

23130. Frozen eggs. (F. D. C. No. 38841. S. No. 22-054 M.)

QUANTITY: 30 30-lb. cans at Troy, N. Y.

SHIPPED: 11-29-55, from Bellows Falls, Vt., by H. P. Hood & Sons.

LIBELED: 2-3-56; amended 2-17-56, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 4-13-56. Default—destruction.

FISH AND SHELLFISH

23131. Frozen fish fillets. (F. D. C. No. 38978. S. No. 48-319 M.)

QUANTITY: 74 cartons containing a total of 282 10-lb. cartons at Monmouth Beach, N. J.

SHIPPED: 1-28-56, from Chicago, Ill., by Shapiro Fisheries, Inc.

LIBELED: 3-8-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 4-23-56. Default—destruction.

23132. Frozen butterfish. (F. D. C. No. 39001. S. No. 48-318 M.)

QUANTITY: 554 lbs. in 5 cases at Brooklyn, N. Y.

SHIPPED: 2-24-56 and 3-2-56, from Monmouth Beach, N. J., by Monmouth Beach Cold Storage Co.

LIBELED: 3-22-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 4-24-56. Default—destruction.

23133. Frozen salmon. (F. D. C. No. 39064. S. Nos. 47-684/5 M.)

QUANTITY: 5,014 lbs. in 123 boxes at New York, N. Y.

SHIPPED: 7-26-55, from Nova Scotia, Canada, by National Sea Products, Ltd.

LIBELED: 5-9-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 6-6-56. Default—destruction.

23134. Canned crabmeat. (F. D. C. No. 39090. S. No. 15-626 M.)

QUANTITY: 14 cases, 24 15-oz. cans each, at San Francisco, Calif.

SHIPPED: 1-18-56, from Seattle, Wash., by Jensen McLean Co., Inc.

LABEL IN PART: (Can) "T and M Brand * * * Alaska King Crab."

LIBELED: 3-22-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 4-30-56. Consent—claimed by Alaska-Fresh Co., Seattle, Wash.

Segregated, 8 13/24 cases out of 35 9/24 cases actually seized were destroyed.

23135. Oysters. (F. D. C. No. 39087. S. No. 16-847 M.)

QUANTITY: 201 12-oz. cans at Cincinnati, Ohio.

SHIPPED: 3-14-56, from Oxford, Md., by Oxford Packing Co., Inc.

LABEL IN PART: (Can) "Oysters Standards * * * Long Bar Brand * * * Md. 8."

LIBELED: 3-16-56, S. Dist. Ohio.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 3-21-56. Consent—delivered to a county institution.

23136. Oysters. (F. D. C. No. 39011. S. No. 44-934 M.)

QUANTITY: 64 cans at Burlington, N. C.

SHIPPED: 3-21-56, from Irvington, Va., by Cornwell Seafood Co.

LABEL IN PART: (Can) "Contents One Pint Davy Crockett Brand Oysters Standards * * * VA 445."

LIBELED: 3-30-56, M. Dist. N. C.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 4-26-56. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

23137. Canned apples. (F. D. C. No. 39075. S. No. 47-182 M.)

QUANTITY: 685 cases, 6 6-lb., 7-oz. cans each, at Philadelphia, Pa.

SHIPPED: 2-8-54, from Portadown, North Ireland.

LIBELED: 5-14-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed substance while held for sale.

DISPOSITION: 7-5-56. Consent—claimed by Catz American Co., Inc., New York, N. Y. Segregated, 216½ cases destroyed.

DRIED FRUIT

23138. Evaporated apples. (F. D. C. No. 39034. S. No. 44-927 M.)

QUANTITY: 189 50-lb. boxes at Petersburg, Va.

SHIPPED: 1-5-56, from Wolcott, N. Y., by Welkley Bros.

LABEL IN PART: (Box) "Choice Niagara Brand Evaporated Apples Packed by Welkley Bros."

LIBELED: 4-16-56, E. Dist. Va.

CHARGE: 402 (a) (3)—contained insects, fly parts, other insect parts, and rodent hairs; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-10-56. Default—consumption by animals.

VEGETABLES AND VEGETABLE PRODUCTS

23139. Dried Great Northern beans. (F. D. C. No. 39027. S. No. 1-904 M.)

QUANTITY: 67 bales, 30 2-lb. packages each, at Wilmington, N. C.

SHIPPED: Approximately 10 years prior to the filing of the libel, from Denver, Colo.

LIBELED: 4-16-56, E. Dist. N. C.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 5-28-56. Default—destruction.

23140. Mung beans. (F. D. C. No. 39079. S. No. 26-360 M.)

QUANTITY: 38 100-lb. bags at Duluth, Minn., in possession of Chun King Sales, Inc.

SHIPPED: 1-15-56, from Vernon, Tex.

LIBELED: 3-6-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-2-56. Consent—claimed by Chun King Sales, Inc. Segregated, 700 lbs. destroyed.

23141. Dried split peas (2 seizure actions). (F. D. C. Nos. 39102, 39108. S. Nos. 41-354/5 M, 41-357 M.)

QUANTITY: 167 100-lb. bags at Batavia, N. Y., in possession of Genesee Warehouses.

SHIPPED: 9-27-55 and 10-17-55, from Palouse and Spokane, Wash.

LIBELED: 4-3-56 and 4-6-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-25-56. Consent—claimed by Geo. W. Haxton & Son, Inc., Oakfield, N. Y. Segregated, 2,040 lbs. destroyed.

23142. Canned turnip greens. (F. D. C. No. 39051. S. No. 1-915 M.)

QUANTITY: 10 cases, 24 cans each, at Norfolk, Va.

SHIPPED: 1-13-56, from Dandridge, Tenn., by Bush Bros. & Co.

LABEL IN PART: (Can) "Bush's Best Chopped Turnip Greens * * * Contents 1 lb. 11 oz."

LIBELED: 5-2-56, E. Dist. Va.

CHARGE: 402 (a) (3)—contained flies, a roach, and insect parts when shipped.

DISPOSITION: 6-27-56. Default—destruction.

23143. Onions in brine. (F. D. C. No. 39031. S. No. 37-433 M.)

QUANTITY: 11 300-lb. bbls. at Brooklyn, N. Y.

SHIPPED: 2-18-52, from Holland.

LIBELED: 4-12-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed substance while held for sale.

DISPOSITION: 5-18-56. Default—destruction.

23144. Pickles. (F. D. C. No. 38993. S. Nos. 49-395/6 M.)

QUANTITY: 103 cases, 12 1-qt. jars each, and 110 cases, 24 8-oz. jars each, at Chicago, Ill.

SHIPPED: 9-13-55, from Brodhead, Wis., by Colony Foods Co.

LABEL IN PART: (Jar) "Bristol Farm Brand Kosher Dill Pickles [or "Small Kosher Style Dill Gherkins"]."

LIBELED: 3-15-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained dirt and grit when shipped.

DISPOSITION: 5-23-56. Default—destruction.

23145. Pickles. (F. D. C. No. 38433. S. Nos. 24-741/3 M.)

QUANTITY: 104 cases, 24 8-oz. jars each; 21 cases, 24 1-pt. jars each; and 31 cases, 12 1-qt. jars each, at Seattle, Wash.

SHIPPED: 6-7-55, from Redgranite, Wis., by Chicago Pickle Co., Inc.

LABEL IN PART: (Jar) "Napoleon * * * Kosher Style Midget [or "Baby"] Dills."

LIBELED: 9-13-55, W. Dist. Wash.

CHARGE: 402 (a) (3)—when shipped, all lots were unfit for food by reason of the presence therein of an excessive amount of sand and grit.

DISPOSITION: 11-28-55. Consent—claimed by Chicago Pickle Co., Inc. After failure of attempts to recondition the pickles, the pickles were destroyed.

TOMATOES AND TOMATO PRODUCTS

23146. Canned tomatoes. (F. D. C. No. 38825. S. Nos. 37-952/3 M.)

QUANTITY: 91 cases, 24 1-lb., 12-oz. cans each, and 236 cases, 24 1-lb. cans each, at Utica, N. Y.

SHIPPED: 10-11-55, from Federalsburg, Md., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Much-More Brand * * * Tomatoes."

LIBELED: 1-20-56, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained fly eggs and maggots; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 3-1-56. Default—destruction.

23147. Canned tomatoes. (F. D. C. No. 38813. S. No. 37-951 M.)

QUANTITY: 134 cases, 24 1-lb. cans each, at Cortland, N. Y.

SHIPPED: 10-11-55, from Federalsburg, Md., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Much-More Brand * * * Tomatoes."

LIBELED: 1-12-56, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained fly eggs and maggots; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 4-13-56. Default—destruction.

23148. Canned dietetic tomatoes. (F. D. C. No. 38842. S. No. 5-265 M.)

QUANTITY: 80 cases, 24 1-lb. cans each, at Detroit, Mich.

SHIPPED: 11-23-55, from Preston, Md., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Premier Dietetic Pack Hand Packed Peeled Tomatoes."

LIBELED: On or about 2-8-56, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained fly eggs and maggots; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 4-5-56. Default—consumption by animals.

23149. Canned crushed tomatoes and pizza sauce. (F. D. C. No. 38806. S. Nos. 21-898/9 M.)

QUANTITY: 14 cases, 6 6-lb., 6-oz. cans each, of tomatoes, and 5 cases, 6 6-lb., 6-oz. cans each, of pizza sauce, at Cortland, N. Y.

SHIPPED: 10-3-55, from Snow Hill, Md., by Italian Style Tomato Packers, Inc.

LABEL IN PART: (Can) "La Guardia's Sal-Sa-Pomo Brand Crushed Plum Italian Style and Round, Peeled Tomatoes" and "Jonasco Brand Con Basilico Pizza Sauce."

LIBELED: 12-31-55, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-23-56. Default—destruction.

23150. Canned crushed tomatoes and tomato puree (3 seizure actions). (F. D. C. Nos. 38394, 38395, 38750, 38836. S. Nos. 22-022/3 M, 22-039/40 M, 37-961 M.)

QUANTITY: 772 cases, 6 6-lb., 6-oz. cans each, of crushed tomatoes, and 339 cases, 24 1-lb., 12-oz. cans each, of tomato puree, at Bloomingdale and Utica, N. Y.

SHIPPED: Between 8-31-55 and 10-13-55, from Snow Hill, Md., by Italian Style Tomato Packers, Inc.

LABEL IN PART: (Can) "LaGuardia's Sal-Sa-Pomo Brand * * * Crushed Plum Italian Style and Round, Peeled Tomatoes" and "Bendin's * * * Tomato Puree."

LIBELED: 11-9-55 and 2-3-56, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-13-56. Default—destruction.

23151. Tomato catsup. (F. D. C. No. 38935. S. No. 31-839 M.)

QUANTITY: 89 cases, 6 7-lb. cans each, at Trenton, N. J.

SHIPPED: 9-17-55, from Bristol, Pa., by Delaware Valley Packing Co.

LABEL IN PART: (Can) "Pemaca Brand * * * Tomato Catsup."

LIBELED: 2-6-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-12-56. Default—destruction.

23152. Tomato catsup. (F. D. C. No. 38959. S. No. 32-654 M.)

QUANTITY: 24 cases, 6 7-lb. cans each, at Wilmington, Del.

SHIPPED: 11-4-55 and 11-11-55, from Philadelphia, Pa., by A. Weinfeld & Sons.

LABEL IN PART: (Can) "Penn's Manor Tomato Catsup Packed By Delaware Valley Packing Co., Bristol, Pa."

LIBELED: 2-17-56, Dist. Del.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-21-56. Default—destruction.

23153. Tomato catsup and tomato puree. (F. D. C. No. 38923. S. Nos. 37-405/6 M.)

QUANTITY: 98 cases, 6 7-lb. cans each, of catsup, and 38 cases, 6 6-lb., 9-oz. cans each, of tomato puree at Bronx, N. Y.

SHIPPED: 10-31-55, from Bristol, Pa., by Delaware Valley Packing Co.

LABEL IN PART: (Can) "Penn's Manor Tomato Catsup" and "Pemaca Brand Tomato Puree."

LIBELED: 1-24-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—both articles contained decomposed tomato material when shipped, and the tomato puree contained fly eggs and maggots; and 402 (a) (4)—the tomato puree was prepared under insanitary conditions.

DISPOSITION: 2-24-56. Default—destruction.

23154. Tomato puree. (F. D. C. No. 38891. S. No. 47-425 M.)

QUANTITY: 994 cartons, 6 6-lb., 9-oz. cans each, at Brooklyn, N. Y.

SHIPPED: 11-1-55, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Rose Leaf Brand Fancy California Tomato Puree."

LIBELED: 1-11-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-8-56. Default—destruction.

23155. Tomato puree. (F. D. C. No. 38908. S. Nos. 8-983 M, 48-411 M.)

QUANTITY: 485 cases, 6 6-lb., 8-oz. cans each, at Brooklyn, N. Y.

SHIPPED: 11-22-55 and 11-23-55, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Golden Flow Brand * * * California Tomato Puree."

LIBELED: 1-19-56, E. Dist. N. Y.

CHARGE: 402(a) (3)—contained decomposed tomato material and fly eggs when shipped.

DISPOSITION: 3-8-56. Default—destruction.

23156. Tomato puree. (F. D. C. No. 38734. S. No. 1-832 M.)

QUANTITY: 200 cases, 6 No. 10 cans each, at Norfolk, Va.

SHIPPED: 11-21-55, from Snow Hill, Md., by Italian Style Tomato Packers, Inc.

LIBELED: On or about 12-19-55, E. Dist. Va.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-2-56. Default—destruction.

23157. Tomato puree (2 seizure actions). (F. D. C. Nos. 38858, 38867. S. Nos. 37-237 M, 37-240 M.)

QUANTITY: 27 cases, 6 6-lb., 6-oz. cans each, at Elizabeth and Hoboken, N. J.

SHIPPED: 9-1-55 and 9-13-55, from Snow Hill, Md., by Italian Style Tomato Packers, Inc.

LABEL IN PART: (Can) "White Horse Brand Fancy Quality Tomato Puree."

LIBELED: 12-15-55 and 12-21-55, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-2-56 and 3-5-56. Default—destruction.

23158. Pizza sauce and canned crushed tomatoes. (F. D. C. No. 38797. S. Nos. 37-723/4 M.)

QUANTITY: 10 cases, 6 6-lb., 6-oz. cans each, of pizza sauce, and 86 cases, 6 6-lb., 6-oz. cans each, of tomatoes, at Rochester, N. Y.

SHIPPED: 9-1-55 and 10-8-55, from Snow Hill, Md., by Italian Style Tomato Packers, Inc.

LABEL IN PART: (Can) "Jonsco Brand Con Basilico Pizza Sauce" and "La Guardia's Sal-Sa-Pomo Brand Crushed Plum Italian Style and Round, Peeled Tomatoes."

LIBELED: 12-19-55, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-1-56. Default—destruction.

23159. Pizza sauce. (F. D. C. No. 38915. S. No. 32-758 M.)

QUANTITY: 53 cases, 6 6-lb., 9-oz. cans each, at Philadelphia, Pa.

SHIPPED: 9-19-55, from Vineland, N. J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Pizza Sauce Special Formula Prepared For Pizza King Inc."

LIBELED: 1-17-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 2-15-56. Default—destruction.

23160. Tomato juice. (F. D. C. No. 38678. S. No. 8-979 M.)

QUANTITY: 575 cartons, 12 1-qt., 14-oz. cans each, at Boston, Mass.

SHIPPED: 10-24-55, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Golden Flow Brand * * * California Tomato Juice."

LIBELED: 11-7-55, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-30-56. Default—destruction.

23161. Tomato juice. (F. D. C. No. 38861. S. No. 32-221 M.)

QUANTITY: 474 cases, 12 46-oz., cans each, at Philadelphia, Pa.

SHIPPED: 10-11-55, from Alton, N. Y., by Alton Canning Co., Inc.

LABEL IN PART: (Can) "Herald Brand Fancy Tomato Juice."

LIBELED: 12-16-55, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained fly eggs and decomposed tomato material when shipped.

DISPOSITION: 3-22-56. Default—destruction.

23162. Tomato juice. (F. D. C. No. 38801. S. Nos. 31-893/4 M.)

QUANTITY: 198 cases, 24 1-pt., 2-oz. cans each, and 197 cases, 6 3-qt. cans each, at Wilkes-Barre, Pa.

SHIPPED: 10-10-55, from Clyde, N. Y., by H. C. Hemingway & Co.

LABEL IN PART: (Can) "Lily of the Valley Tomato Juice."

RESULTS OF INVESTIGATION: Examination showed that both lots contained decomposed tomato material and that the 198-case lot contained fly eggs and maggots.

LIBELED: 12-19-55, M. Dist. Pa.

CHARGE: 402 (a) (3)—the article contained substances that made it unfit for food.

DISPOSITION: 2-6-56. Default—destruction.

23163. Tomato juice. (F. D. C. No. 38919. S. No. 23-242 M.)

QUANTITY: 303 cases, 12 1-qt., 14-oz. cans each, at Boston, Mass.

SHIPPED: 10-17-55, from Silver Creek, N. Y., by Silver Creek Preserving Corp.

LABEL IN PART: (Can) "Butternut Tomato Juice."

LIBELED: 1-18-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-21-56. Consent—claimed by Silver Creek Preserving Corp. Segregated, 135 $\frac{1}{4}$ cases destroyed.

MEAT AND POULTRY*

23164. Horsemeat. (F. D. C. No. 37272. S. Nos. 3-149 M, 3-152 M, 3-159 M, 3-325 M.)

INDICTMENT RETURNED: 9-13-55, Dist. R. I., against John Petrucci, t/a North Providence Public Market, North Providence, R. I.

ALLEGED VIOLATION: Between 1-27-55 and 2-10-55, while quantities of horsemeat were being held for sale at the North Providence Public Market after shipment in interstate commerce, the defendant, with intent to defraud and mislead, caused quantities of horsemeat to be sold as beef hamburg, stewing beef, and cubed beefsteak, which acts resulted in the article being adulterated and misbranded.

CHARGE: 402 (b) (2)—horsemeat had been substituted for beef hamburg, stewing beef, and cubed beefsteak; and 403 (b)—horsemeat was offered for sale under the name of other foods, namely, beef hamburg, stewing beef, and cubed beefsteak.

PLEA: Guilty.

DISPOSITION: 4-20-56. Imprisonment for 1 year.

23165. Frog legs. (F. D. C. No. 38447. S. Nos. 1-669/70 M.)

QUANTITY: 39 cases, 6 5-lb. cartons each, at Miami, Fla.

SHIPPED: 8-9-55 and 8-24-55, from S. A. Guines, Cuba.

LIBELED: 9-27-55, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained decomposed frog legs while held for sale.

DISPOSITION: 11-1-55. Default—destruction.

23166. Dressed poultry. (F. D. C. No. 38-543. S. Nos. 2-543 M, 21-708 M.)

INFORMATION FILED: 3-2-56, Dist. Md., against Paul Feig, Bishop, Md.

SHIPPED: 8-29-55 and 11-3-55, from Maryland to Pennsylvania and the District of Columbia.

CHARGE: 402 (a) (3)—contained, when shipped, birds contaminated with fecal and crop material, decomposed poultry, and extensively mutilated and excessively bruised birds; and 402 (a) (5)—contained diseased birds and birds which had died otherwise than by slaughter.

PLEA: Guilty.

DISPOSITION: 4-20-56. Individual fined \$1,000 and sentenced to 60 days imprisonment, with the provision that the prison sentence would be suspended should the defendant pay the fine within 60 days.

23167. Dressed poultry. (F. D. C. No. 36408. S. No. 84-448 L.)

QUANTITY: 358 lbs. in 5 crates at Philadelphia, Pa.

*See also No. 23197.

SHIPPED: 2-8-54 and 2-9-54, from Federalsburg, Md., by Caroline Poultry Farms.

LIBELED: 3-1-54; amended 11-30-54, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter and extensively bruised birds; and 402 (a) (5)—contained diseased birds when shipped.

DISPOSITION: Caroline Poultry Farms, having appeared as claimant, filed an answer denying that the product was adulterated as alleged. Interrogatories served upon the claimant by the Government were answered; and, on 11-30-54, the Government filed a motion for summary judgment.

On 6-1-55, the claimant having consented to the entry of a decree, the court entered an order condemning the article and providing for its release under bond to the claimant for segregation. The claimant failed to comply with the terms of the decree; and, on 3-26-56, the court ordered that the article be destroyed.

23168. Canned boned chicken and canned boned turkey. (F. D. C. No. 38988. S. Nos. 46-211/2 M.)

QUANTITY: 9 cases, 12 1-lb., 14-oz. cans each, of boned chicken, and 19 cases, 12 1-lb., 14-oz. cans each, of boned turkey at Philadelphia, Pa.

SHIPPED: During June or July 1953, from Lawrence, Ind.

RESULTS OF INVESTIGATION: Examination showed that the articles were undergoing chemical decomposition.

LIBELED: 3-9-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed substance while held for sale.

DISPOSITION: 4-9-56. Default—destruction.

23169. Frozen chicken chow mein. (F. D. C. No. 38565. S. No. 32-684 M.)

INFORMATION FILED: 2-21-56, E. Dist. N. Y., against Temple Frosted Foods, Inc., Brooklyn, N. Y., and Bowden Goon, president.

SHIPPED: 7-27-55, from New York to Pennsylvania.

LABEL IN PART: (Pkg.) "Chicken Chow Mein Net Wt. 12 ozs."

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-15-56. Each defendant fined \$500.

NUTS AND NUT PRODUCTS*

23170. Cashew nuts. (F. D. C. No. 38944. S. No. 47-605 M.)

QUANTITY: 11 25-lb. cans at New York, N. Y.

SHIPPED: Between 5-14-55 and 11-1-55, from India.

LIBELED: 2-23-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 3-15-56. Default—destruction.

23171. Unshelled filberts. (F. D. C. No. 39002. S. No. 36-467 M.)

QUANTITY: 4 100-lb. bags and 9 50-lb. bags at Chicago, Ill.

*See also No. 23117.

SHIPPED: 11-20-53, from Portland, Oreg.

LIBELED: 3-19-56, N. Dist Ill.

CHARGE: 402 (a) (3)—contained, while held for sale, insect-infested nuts, moldy and rancid nuts, shriveled nuts, and empty shells.

DISPOSITION: 4-20-56. Default—destruction.

23172. Unshelled peanuts. (F. D. C. No. 38604. S. No. 3-796 M.)

INFORMATION FILED: 5-3-56, W. Dist. N. Y., against Williams Produce, Inc., Elmira, N. Y.

ALLEGED VIOLATION: Between 5-26-55 and 10-27-55, while the above-mentioned article was being held for sale after shipment in interstate commerce, the defendant caused the article to be placed in a building that was accessible to rodents, insects, and cats, and to be exposed to contamination by rodents, insects, and cats, which acts resulted in the article being adulterated.

CHARGE: 402 (a) (3)—contained rodent pellets, insect pellets, and rodent hairs; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-3-56. \$200 fine.

23173. Peanut butter. (F. D. C. No. 38563. S. Nos. 21-064/5 M.)

INFORMATION FILED: 2-7-56, S. Dist. Iowa, against Peanut Corp. of America t/a Peanut Products Co., Des Moines, Iowa.

SHIPPED: 7-13-55 and 8-11-55, from Iowa to Nebraska.

LABEL IN PART: (Jar) "Lunch-on Net Wt. 1 Lb. Peanut Butter Manufactured By Peanut Products Co. Des Moines, Ia.—Omaha, Neb."; (can) "Homogenized Creamy Whip Peanut Butter Net Weight 8 Pounds Mfg. By Peanut Products Company Omaha, Nebr., Des Moines, Iowa, Indianapolis, Indiana."

CHARGE: 402 (a) (3)—contained insect fragments and rodent hair fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-27-56. \$500 fine, plus costs.

OILS AND FATS

23174. Table and cooking oil. (F. D. C. No. 32721. S. Nos. 23-963/4 L.)

INFORMATION FILED: 9-26-52, E. Dist. N. Y., against Santuzza Oil Co., Inc., Brooklyn, N. Y., and Joseph Profaci, president.

SHIPPED: 1-18-51 and 3-6-51, from New York to New Jersey.

LABEL IN PART: (Can) "One Gallon Net Santuzza Brand * * * A Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil Packed By Santuzza Oil Co., Inc. Brooklyn, N. Y."

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article; 402 (b) (2)—an artificially colored mixture of vegetable oils, with little or no olive oil, had been substituted for a "Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil"; 402 (b) (4)—an artificial color had been added to the article and mixed and packed with it so as to make it appear to be a product containing a substantial amount of olive oil, which is better and of greater value than the article; 403 (a)—the label statement "20% Pure Olive Oil" was false and misleading since it represented

and suggested that the article contained 20 percent of pure olive oil, whereas the article did not contain 20 percent of pure olive oil but contained little or no olive oil; and 403 (k)—the article contained artificial coloring, and it failed to bear labeling stating that fact when shipped.

DISPOSITION: The defendants, after entering a plea of not guilty on 10-27-52, filed a motion for a bill of particulars, which was denied by the court on 2-2-53. On 10-31-55, the defendants changed their pleas to guilty; and, on 1-26-56, each was fined \$3,000.

23175. Olive oil. (F. D. C. No. 32722. S. No. 23-962 L.)

INFORMATION FILED: 1-5-53, E. Dist. N. Y., against Mamma Mia Importing Co., Inc., Brooklyn, N. Y., and Joseph Profaci, president.

SHIPPED: 1-18-51, from New York to New Jersey.

LABEL IN PART: (Can) "Mamma Mia Brand * * * 100% Pure Olive Oil Packed By Mamma Mia Importing Co., Inc., Brooklyn, N. Y."

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in part omitted from the article; and 402 (b) (2)—a mixture of peanut oil and olive oil had been substituted for "100% Pure Olive Oil" when shipped.

DISPOSITION: The defendants, after entering a plea of not guilty on 1-5-53, filed a motion for a bill of particulars, which was denied by the court on 2-2-53. On 10-31-55, the defendants changed their pleas to guilty; and, on 1-26-56, each was fined \$1,000.

SPICES, FLAVORS, AND SEASONING MATERIALS

23176. Ground ginger, caraway seed, poppyseed, and ground white pepper. (F. D. C. No. 38594. S. Nos. 23-098 M, 23-141 M, 23-172/3 M, 23-224/5 M).

INFORMATION FILED: 5-1-56, Dist. Mass., against Stickney and Poor Spice Co., a corporation, Boston, Mass.

ALLEGED VIOLATION: On or about 9-29-55, while quantities of poppyseed and caraway seed were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

The information alleged also that between 5-11-55 and 10-10-55, the defendants shipped adulterated caraway seed, ground white pepper, and ground ginger from Massachusetts to Connecticut, Maine, and Rhode Island.

CHARGE: 402 (a) (3)—contained dead insects, live insects, insect excreta, and insect fragments; and 402 (a) (4)—prepared or held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-28-56. \$200 fine.

23177. Sesame seed. (F. D. C. No. 39000. S. No. 37-427 M.)

QUANTITY: 174 150-lb. bags at New York, N. Y.

SHIPPED: In September 1955, from Alexandria, Egypt, by Hamed & M. Emam Samaha.

LIBELED: 3-22-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained stones and clumps of mud when shipped.

DISPOSITION: 4-19-56. Consent—claimed by Levy & Levis Co., Inc., New York, N. Y. Reconditioned, 718 lbs. denatured.

23178. Sesame seed. (F. D. C. No. 39003. S. No. 37-430 M.)

QUANTITY: 15 90-lb. bags and 4 20-lb. bags, at Bronx, N. Y.

SHIPPED: In September 1955, from Alexandria, Egypt, by Hamed & M. Emam Samaha.

LIBELED: 3-27-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained stones and clumps of mud when shipped.

DISPOSITION: 4-24-56. Default—destruction.

23179. Canned hot cherry peppers. (F. D. C. No. 38879. S. No. 16-388 M.)

QUANTITY: 14 cases, 24 1-pt. jars each, at Seattle, Wash.

SHIPPED: Between 1-1-53 and 12-1-55, from Newark, N. J., by Mother's Food Products, Inc.

LABEL IN PART: (Jar) "Mother's Hot Cherry Peppers."

LIBELED: 1-16-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained moldy peppers when shipped.

DISPOSITION: 3-9-56. Default—destruction.

23180. Seasoning for macaroni with sardines. (F. D. C. No. 38912. S. No. 38-859 M.)

QUANTITY: 5 cases, 48 13-oz. cans each, at Tampa, Fla.

SHIPPED: 10-10-55, from Napoli, Italy.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 1-17-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained decomposed substance while held for sale.

DISPOSITION: 3-21-56. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

23181. Multivitamin capsules. (F. D. C. No. 38687. S. No. 22-834 M.)

QUANTITY: 1 5,700-capsule carton at New Britain, Conn.

SHIPPED: 7-5-55, from New York, N. Y., by Encapsulations, Inc.

LABEL IN PART: (Carton) "E 750 Lot No. 04355 Containing 6000 Capsules 14 Minim Oblong Red Each Capsule Contains: * * * Vitamin B₁ Thiamine HCl) 2 mg. * * * Dosage: One or two capsules daily as dietary supplement or as directed by physician. * * * This is a bulk shipment intended for further packaging."

LIBELED: 11-15-55, Dist. Conn.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "Each Capsule Contains: * * * Vitamin B₁ (Thiamine HCl) 2 mg." was false and misleading.

DISPOSITION: 12-20-55. Default—distributed to a charitable institution.

23182. Vitamin capsules. (F. D. C. No. 38955. S. Nos. 1-869/71 M.)

QUANTITY: 374 100-capsule btls. and 38 500-capsule btls. of "D-Cal-Bron With Vitamin C" and 132 100-capsule btls. of "High Potency Folexon" at Norfolk, Va.

SHIPPED: 9-10-51 and 12-23-53, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Analysis showed that all lots contained less than the declared amounts of vitamin B₁ and that the 132-bottle lot contained less than the declared amount of vitamin C.

LIBELED: 2-15-56, E. Dist. Va.

CHARGE: 402 (b) (1)—valuable constituents, vitamin B₁ and vitamin C, had been in part omitted or abstracted from the articles while held for sale; and 403 (a)—the label statements (374- and 38-btl. lots) "Each capsule contains * * * Thiamine Hydrochloride (B₁). . . . 5 mgm." and (132-btl. lot) "Each capsule contains: * * * Thiamine Hydrochloride (B₁) 3.33 milligrams * * * Ascorbic Acid (C) 30.00 milligrams" were false and misleading.

DISPOSITION: 3-21-56. Default—destruction.

23183. Vitamin tablets (two seizure actions). (F. D. C. Nos. 39019, 39020. S. Nos. 45-830/1 M.)

QUANTITY: 2,342 25-tablet btls. at Philadelphia, Pa.

SHIPPED: During January or February 1952, from San Francisco, Calif.

RESULTS OF INVESTIGATION: Analyses showed that the article contained less than 25 percent of the declared amount of vitamin B₁₂.

LIBELED: 4-3-56, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Tablet Contains * * * Vitamin B₁₂ 2.5 micrograms" was false and misleading.

DISPOSITION: 5-3-56. Default—destruction.

23184. Vitamin-mineral capsules. (F. D. C. No. 38213. S. No. 5-255 M.)

QUANTITY: 160 6,000-capsule boxes at Detroit, Mich.

SHIPPED: 3-3-55, from Winona, Minn. (a return shipment).

RESULTS OF INVESTIGATION: The article became contaminated with N-Trichloromethylthiotetra-hydrophtholimide during the course of the original shipment from Detroit, Mich., to Winona, Minn.

LIBELED: 6-28-55; amended 4-17-56, E. Dist. Mich.

CHARGE: 402 (a) (2)—contained an added poisonous and deleterious substance, N-Trichloromethylthiotetra-hydrophtholimide, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 4-25-56. Consent—destruction.

23185. B-complex tablets. (F. D. C. No. 39054. S. No. 17-656 M.)

QUANTITY: 58 100-tablet btls. at Cambridge, Md.

SHIPPED: Prior to 1954, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 70 percent of the declared amount of vitamin B₁.

LIBELED: On or about 5-3-56, Dist. Md.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Tablet Contains: Vitamin B₁ . . . 300 U. S. P. Units" was false and misleading.

DISPOSITION: 5-25-56. Default—destruction.

23186. Vitamin B₁₂ tablets. (F. D. C. No. 38968. S. No. 45-829 M.)

QUANTITY: 196 btls., 25 tablets each, at Philadelphia, Pa.

SHIPPED: On an unknown date, from San Francisco, Calif.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 40 percent of the declared amount of vitamin B₁₂.

LIBELED: 2-27-56, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Tablet Contains * * * Vitamin B₁₂ 2.5 Micrograms" was false and misleading.

DISPOSITION: 3-26-56. Default—destruction.

23187. Benevim. (F. D. C. No. 39017. S. No. 39-048 M.)

QUANTITY: 195 cases, 12 1-pt. btls. each, 15 cases, 12 6-oz. btls. each, and 8 cases, 24 6-oz. btls. each, at Greensboro, N. C.

SHIPPED: 2-23-52 and 8-22-52, from New York, N. Y.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 75 percent of the declared amount of vitamin B₁.

LIBELED: 3-30-56, M. Dist. N. C.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "1 Fl. Ounce (2 tablespoonfuls) Supplies: Vitamin B₁ * * * 8 mg." was false and misleading.

DISPOSITION: 5-9-56. Default—destruction.

23188. Calirovit tablets. (F. D. C. No. 39046. S. No. 51-976 M.)

QUANTITY: 96 btls. at Carlstadt, N. J.

SHIPPED: 3-5-56, from New York, N. Y., by Yates Drug Co.

LABEL IN PART: (Btl.) "List No. 575 100 Tablets Calirovit * * * Irradiated Ergosterol (Vitamin D₂), 400 U. S. P. Vitamin D Units."

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin D.

LIBELED: On or about 5-2-56, Dist. N. J.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "Irradiated Ergosterol (Vitamin D₂), 400 U. S. P. Vitamin D Units" was false and misleading.

DISPOSITION: 6-13-56. Default—destruction.

23189. Complevite Drops. (F. D. C. No. 38722. S. No. 30-943 M.)

QUANTITY: 503 15-cc. btls. and 25 30-cc. btls. at Knoxville, Tenn.

SHIPPED: 9-12-55, from New York, N. Y.

RESULTS OF INVESTIGATION: Analysis showed that the article contained 67 percent of the declared amount of vitamin B₁. A portion of the article had been relabeled by the consignee after its shipment in interstate commerce.

LIBELED: 11-29-55, E. Dist. Tenn.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each 0.6 cc. provides the following vitamins * * * B₁ 2 mg." was false and misleading as applied to that portion of the article which was relabeled.

DISPOSITION: 1-19-56; amended 1-25-56. Default—destruction.

23190. Nutricol capsules. (F. D. C. No. 38095. S. No. 9-562 M.)

QUANTITY: 15 tins, 500 capsules each, at Los Angeles, Calif.

SHIPPED: 2-11-55, from New York, N. Y.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of vitamin D.

LIBELED: 7-21-55, S. Dist. Calif.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Vitamins In each capsule: * * * D (Irradiated Yeast)—333 USP Units" was false and misleading.

DISPOSITION: 3-28-56. Default—delivered to a charitable institution.

23191. Orvita. (F. D. C. No. 38954. S. No. 45-887 M.)

QUANTITY: 65 cases, 24 8-oz. btls. each, and 6 cases, 12 1-pt. btls. each, at Philadelphia, Pa.

SHIPPED: 9-19-51, from Los Angeles, Calif.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than the declared amount of vitamin A.

LIBELED: 2-14-56, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin A, had been in part omitted or abstracted from the article; and 403 (a)—the label statement "3 teaspoonsful contains * * * Vitamin A * * * 4000 U.S.P. Units" was false and misleading.

DISPOSITION: 3-12-56. Default—destruction.

23192. Enteric Coated White Pretabs. (F. D. C. No. 38771. S. No. 26-252 M.)

QUANTITY: 15,000 tablets in 1 drum at Minneapolis, Minn.

SHIPPED: 7-27-54, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 50 percent of the declared amount of vitamin D.

LIBELED: 11-22-55, Dist. Minn.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Tablet Contains Vitamin * * * D Viosterol 200 USPU" was false and misleading.

DISPOSITION: 1-5-56. Default—delivered to a charitable institution.

23193. Syrup Therabee. (F. D. C. No. 39053. S. No. 51-978 M.)

QUANTITY: 3 1-gal. btls. and 129 16-oz. btls. at Long Island City, N. Y.

SHIPPED: 4-25-52, from Newark, N. J.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 75 percent of the declared amount of vitamin B₁₂.

LIBELED: 5-1-56, E. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each 30 cc. * * * contains not less than: * * * Vitamin B₁₂ (Crystalline) 20 mcg." was false and misleading.

DISPOSITION: 6-6-56. Default—destruction.

23194. Decal wafers. (F. D. C. No. 39012. S. No. 47-524 M.)

QUANTITY: 13 drums, containing a total of approximately 49,600 wafers, at Roselle Park, N. J.

SHIPPED: 11-4-55, from New York, N. Y.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of vitamin D.

LIBELED: 4-2-56, Dist. N. J.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Ea. tab (wafer) * * * Contains: * * * Vitamin D 600 USP Units" was false and misleading.

DISPOSITION: 5-16-56. Default—destruction.

23195. FeeDoil. (F. D. C. No. 39016. S. Nos. 34-045/6 M.)

QUANTITY: 42 410-lb. drums at Kansas City, Mo.

SHIPPED: 1-20-56, from New York, N. Y., by Pardee Co.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin D.

LIBELED: 4-5-56, W. Dist. Mo.

CHARGE: 402 (b) (1)—A valuable constituent, vitamin D, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "Guaranteed To Contain Not Less Than 300 International Chick Units Vitamin D Per Gram 136,080 International Chick Units Vitamin D Per Pound" was false and misleading.

DISPOSITION: 5-2-56. Consent—claimed by Thompson Hayward Chemical Co., Kansas City, Mo. The article was satisfactorily reconditioned by the addition of vitamin D₃ concentrate.

MISCELLANEOUS FOODS

23196. Potato knishes and stuffed derma. (F. D. C. No. 38544. S. Nos. 1-621 M, 2-627 M.)

INFORMATION FILED: 1-9-56, E. Dist. N. Y., against Karen's Frozen Food Corp., Brooklyn, N. Y., and William Berez, President.

SHIPPED: 5-5-55 and 5-11-55, from New York to the District of Columbia and Florida.

LABEL IN PART: (Pkg.) "Karen's 12 Knishes Net Wt. 8 Oz. Potato Knishes" and "Karen's 4 Pieces Minimum Count Net Wt. 8 Oz. Stuffed Derma."

CHARGE: 402 (a) (3)—contained rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-23-56. Corporation fined \$1,000 and individual \$250.

23197. Frozen egg roll, frozen Won-Ton soup, and frozen chicken chow mein.
(F. D. C. No. 38405. S. Nos. 32-682/4 M.)

QUANTITY: 194 cases, 12 boxes each, of frozen egg roll, 99 cases, 12 boxes each, of frozen Won-Ton soup, and 199 cases, 12 boxes each, of frozen chicken chow mein, at Philadelphia, Pa.

SHIPPED: 6-16-55 and 7-27-55, from Brooklyn, N. Y., by Temple Frosted Foods, Inc.

LABEL IN PART: (Box) "Quick Frozen Chinese Egg Roll Net Wt. 7 Ozs. * * * Temple's Frosted Foods," "Temple's Frosted Foods Quick Frozen * * * Chinese Won-Ton Soup (Kreplach) * * * Net Wt. 15 Oz.," and "Temple's Frosted Foods Quick Frozen Chicken Chow Mein Net Wt. 12 Ozs."

LIBELED: 8-19-55, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained fly parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-20-55. Default—destruction.

23198. Edi-Gel. (F. D. C. No. 38315. S. No. 25-870 M.)

QUANTITY: 30 50-lb. bags at Bongards, Minn., in possession of Bongards Co-op. Creamery Association.

SHIPPED: 5-6-53, from Keokuk, Iowa.

LIBELED: 9-7-55, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 11-8-55. Default—destruction.

23199. Eg-O-Do. (F. D. C. No. 38658. S. No. 1-804 M.)

QUANTITY: 1 208-lb. drum at Norfolk, Va.

SHIPPED: 9-9-55, from Philadelphia, Pa., by Brokay Products.

LABEL IN PART: (Drum) "Brokay Eg-O-Do."

LIBELED: 10-27-55, E. Dist. Va.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 12-2-55. Default—consumption by animals.

23200. Coal-tar color. (F. D. C. No. 38264. S. No. 18-414 M.)

QUANTITY: 1 125-lb. drum at Brooklyn, N. Y.

SHIPPED: On 2-3-55, a drum, the labeling of which represented that it contained FD&C Red No. 2 of Certified lot No. G 3459, was shipped from Lansdowne, Pa., to Atlanta, Ga. Upon its arrival, the consignee refused to accept the article because the drum was damaged.

On 2-7-55, Associated Transport, Inc., Atlanta, Ga., shipped the damaged drum to Universal Salvage & Testing Corp., New York, N. Y. The latter firm

resold the article to Hamilton Sales & Salvage Co., Brooklyn, N. Y., in whose possession the article was seized in a drum marked in black crayon "H1195."

LIBELED: 7-29-55, E. Dist. N. Y.

CHARGE: 402 (c)—while in interstate commerce, the article contained a coal-tar color other than one from a batch that had been certified in accordance with the requirements of the law, since the certificate became ineffective when the package was shipped and delivered to Brooklyn, N. Y., without the label required by the color certification regulations.

DISPOSITION: 9-28-55. Default—destruction.

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PRODUCTS

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| mung, dried | 23140 | Filberts, unshelled | 23171 |
| Benevim | 23187 | Fish and shellfish | 23131-23136 |
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| Cheese | 23127 | ucts | 23146-23163 |
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| | | unshelled | 23172 |
| | | Peas, split, dried | 23141 |
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¹ (23167) Seizure contested.

| | N. J. No. | | N. J. No. |
|---|---------------------|--|---------------------|
| Peppers, cherry, hot, canned | 23179 | Therabee, Syrup | 23193 |
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| Poppyseed | 23176 | puree | 23150, 23153-23157 |
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| Banquet Canning Co.: | | tomato catsup | 23151-23153 |
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| | | coal-tar color | 23200 |

¹ (23167) Seizure contested.

| | | | |
|---------------------------------|---------------------|--|--------------|
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| pizza sauce----- | 23159 | Co.: | |
| | | wheat----- | 23119 |

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U. S. Department of Health, Education, and Welfare

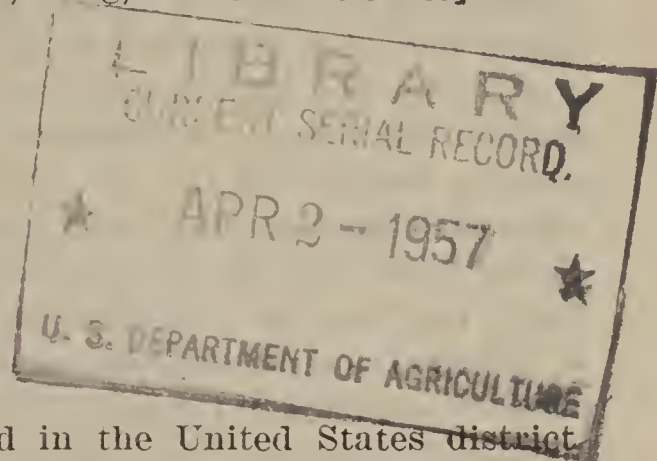
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23201-23250

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which default or consent decrees of condemnation were entered; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere or a verdict of guilty; and (3) injunction proceedings terminated with the entry of a consent decree of injunction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *March 12, 1957.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23201-23250**

Adulteration, Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in two other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance or was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which had died otherwise than by slaughter; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

FLOUR

23201. Flour. (F. D. C. No. 39062. S. No. 32-573 M.)

QUANTITY: 67 100-lb. bags at Allentown, Pa., in possession of Hawk Flour Mills, Inc.

SHIPPED: 2-27-56, from Alton, Ill.

LIBELED: 5-4-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained bird excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-4-56. Default—destruction.

23202. Flour. (F. D. C. No. 39021. S. Nos. 25-940/1 M.)

QUANTITY: 100 50-lb. bags at Chariton, Iowa, in possession of Chariton Wholesale Grocery.

SHIPPED: Between 10-27-55 and 3-1-56, from Atchison, Kans., and Omaha, Nebr.

LIBELED: 4-4-56, S. Dist. Iowa.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-8-56. Default—destruction.

23203. Flour. (F. D. C. No. 39109. S. No. 21-399 M.)

QUANTITY: 35 100-lb. bags at Omaha, Nebr.

SHIPPED: Prior to 1-9-56, from outside the State of Nebraska.

LIBELED: 4-16-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent excreta while held for sale.

DISPOSITION: 5-18-56. Default—destruction.

23204. Flour. (F. D. C. No. 39099. S. No. 42-762 M.)

QUANTITY: 10 100-lb. bags at El Paso, Tex.

SHIPPED: 2-23-56, from Lamar, Colo.

LIBELED: 3-27-56, W. Dist. Tex.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-10-56. Default—consumption by animals.

MACARONI AND NOODLE PRODUCTS

23205. Macaroni. (F. D. C. No. 39041. S. No. 52-813 M.)

QUANTITY: 29 cartons, 20 1-lb. pkgs. each, at New York, N. Y.

SHIPPED: During 1955, from Italy.

LIBELED: 4-24-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and rodent excreta while held for sale.

DISPOSITION: 5-16-56. Default—destruction.

23206. Egg noodles. (F. D. C. No. 39123. S. No. 40-634 M.)

QUANTITY: 97 10-lb. cases at Minneapolis, Minn.

SHIPPED: 3-23-56, from Steger, Ill., by G. D'Amico Macaroni Co., Inc.

LABEL IN PART: (Case) "Aslesen's Banquet Table Polish Style Egg Noodles."

LIBELED: 5-3-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 6-14-56. Default—consumption by animals.

23207. Wheat and soy seashells and artichoke egg noodles. (F. D. C. No. 38845. S. Nos. 34-071/2 M.)

QUANTITY: 77 7-oz. pkgs. of wheat and soy seashells and 15 5-oz. pkgs. of artichoke egg noodles at Tulsa, Okla.

SHIPPED: 12-7-55, from Cleveland, Ohio, by Pfaffman Co.

LABEL IN PART: (Pkg.) "Pfaffman's Climax Wheat and Soy Seashells [or "Artichoke Egg Noodles"]."

LIBELED: 2-7-56, N. Dist. Okla.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 2-27-56. Default—destruction.

MISCELLANEOUS CEREALS

23208. Unpopped popcorn. (F. D. C. No. 38141. S. Nos. 855 M, 2-221 M, 2-224 M, 2-226 M.)

INDICTMENT RETURNED: 12-14-55, S. Dist. Ohio, against Joe F. Johnson, president of Popcorn Growers Exchange, Columbus, Ohio.

SHIPPED: Between 12-3-54 and 2-19-55, from Ohio to Florida and West Virginia.

LABEL IN PART: (Bag) "50 Lbs Net Wt. Tastee Popcorn Popcorn Growers Exchg. Inc. 664 Stelzer Rd. Columbus, Ohio" or "Tastee Popcorn Net Weight 2 Lbs. [or "16 ounces Net Weight"] Popcorn Growers Exchange Columbus, Ohio."

CHARGE: 402 (a) (3)—contained insects, insect parts, rodent hairs, rodent excreta, and rodent- and insect-damaged kernels; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-21-56. \$500 fine and sentence of 16 months in jail; jail sentence suspended and probation for 5 years.

23209. Wheat. (F. D. C. No. 36974. S. No. 75-895 L.)

QUANTITY: 113,400 lbs. at Cut Bank, Mont.

SHIPPED: 9-24-54, from Seattle, Wash., by Greeley Elevator Co.

LIBELED: 9-29-54, Dist. Mont.

CHARGE: 402 (a) (2)—when shipped, contained an added poisonous and deleterious substance, a mercurial compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 12-7-54. Consent—claimed by Greeley Elevator Co., Great Falls, Mont., and converted to seed wheat.

CONFECTIONERY

23210. Candy. (F. D. C. No. 39038. S. Nos. 15-153/6 M.)

QUANTITY: 16 cases, 12 boxes each, at Fresno, Calif.

SHIPPED: 3-12-56, from Brooklyn, N. Y., by Phoenix Candy Co.

LABEL IN PART: (Box) "240 Count Slim Jim Chocolate [or "Toffee," "Banana," or "Licorice"] Flavored Slim Jims 2 for 1¢."

LIBELED: 4-17-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-15-56. Default—destruction.

23211. Candy. (F. D. C. No. 39070. S. No. 2-121 M.)

QUANTITY: 7 cases, 12 boxes each, at Roanoke, Va.

SHIPPED: 1-24-56, from Dunn, N. C., by Wellons Candy Co. (Supreme Candy Co.).

LABEL IN PART: (Bar) "Two-Tone," "Big Man," "Cabbage Bar," "Rainbow Bar," "Cream Cocoanut," "Supreme Cornbread Candy Bar," "Hunnie Bun," "Supreme Tic Tic Tic Nut Roll," and "Jazz Bar."

LIBELED: On or about 5-14-56, W. Dist. Va.

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-23-56. Default—destruction.

23212. Honey. (F. D. C. No. 39106. S. No. 20-778 M.)

QUANTITY: 580 5-gal. cans and 5,000 lbs. at St. Joseph, Mo., in possession of Ben H. Hughes.

SHIPPED: During August and September 1955, from Norfolk, Nebr.

LIBELED: 4-5-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent excreta, rodent hairs, insect fragments, and manure; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-20-56. Consent—claimed by Ben H. Hughes and denatured for use as bee food.

23213. Honey. (F. D. C. No. 39091. S. Nos. 33-985 M, 33-988 M.)

QUANTITY: 141 5-gal. cans at Kansas City, Mo.

SHIPPED: Approximately 1½ years prior to filing the libel, from Norfolk, Nebr.

LIBELED: 3-21-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent hairs while held for sale.

DISPOSITION: 4-16-56. Consent—claimed by Jewett & Sherman Co., Kansas City, Mo. Converted to bee food.

DAIRY PRODUCTS

BUTTER

23214. Butter. (F. D. C. No. 37163. S. Nos. 37-337 M, 37-717/S M.)

QUANTITY: 191 64-lb. cubes at Jersey City, N. J.

SHIPPED: 12-1-55, from Kingsley, Pa., by Conservation Creameries, Inc.

LIBELED: 12-21-55, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed animal substance and insect parts when shipped; and 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 1-25-56; amended 2-28-56. Default—converted to an inedible nonfood product for fat salvage.

CHEESE

23215. Ricotta cheese. (F. D. C. No. 35607. S. No. 78-352 L.)

INDICTMENT RETURNED: 5-2-55, S. Dist. N. Y., against Goshen Cheese Co., Inc., Goshen, N. Y., and Samuel H. DeStafeno, president.

SHIPPED: 10-7-54, from New York to New Jersey.

LABEL IN PART: (Wrapper) "Manufactured By Geral-Deene Dairy Prods. Ricotta."

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

PLEA: Guilty.

DISPOSITION: 5-3-56. Corporation fined \$1,000. Individual defendant fined \$750 and sentenced to imprisonment for 6 months; prison sentence suspended and individual placed on probation for 3 years.

MISCELLANEOUS DAIRY PRODUCTS

23216. Canned concentrated skim milk. (F. D. C. No. 38175. S. Nos. 30-233 M, 30-507 M.)

INFORMATION FILED: 11-7-55, W. Dist. Mo., against Ashley Milk Co., a corporation, Linn, Mo.

SHIPPED: Between 7-25-55 and 8-3-55, from Missouri to Illinois.

LABEL IN PART: (Can) "Ashley Milk Co. St. Louis, Mo. For Manufacturing or Cooking Purposes Only Concentrated Skim Milk Date Jul 23 1955 [or "Aug 2 1955"]."

CHARGE: 402 (a) (3)—contained dermestid larva, maggots, fly and maggot parts, beetle and moth parts, manure fragments, fly eggs, and rodent hair fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-10-56. \$1,600 fine.

23217. Canned evaporated goat milk. (F. D. C. Nos. 38995/9. S. Nos. 28-121/7 M.)

QUANTITY: 210 cases, 24 14-oz. cans each, at Honolulu, T. H.

SHIPPED: Between 12-12-55 and 2-9-56, from Modesto, Calif., by Milk Foods, Inc.

LABEL IN PART: (Can) "Miracle Brand Evaporated Goat Milk."

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 3-19-56, Dist. Hawaii.

CHARGE: 402 (a) (3)—contained decomposed substance when shipped.

DISPOSITION: 4-12-56. Default—destruction.

23218. Nonfat dry milk. (F. D. C. No. 38924. S. No. 25-918 M.)

QUANTITY: 2 250-lb. drums at Des Moines, Iowa.

SHIPPED: 12-13-55, from Kansas City, Mo., by Say-Lac Sales Co., Inc.

LABEL IN PART: (Drum) "De-Raef Non-fat Milk Solids * * * Manufactured and Packed Exclusively * * * by De-Raef Corporation * * * 2004 Baltimore, Kansas City 8 Missouri 250."

LIBELED: 1-24-56, S. Dist. Iowa.

CHARGE: 402 (b) (2)—a mixture of nonfat dry milk, calcium carbonate, and soya flour had been substituted in whole or in part for nonfat dry milk when shipped; 402 (b) (4)—calcium carbonate and soya flour had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (a)—the label designation "Non-Fat Milk Solids" was false and misleading.

DISPOSITION: 3-9-56. Default—consumption by animals.

FISH AND SHELLFISH

23219. Frozen fish fillets. (F. D. C. No. 37998. S. Nos. 18-688 M, 18-692 M.)

QUANTITY: 23 10-lb. cartons at New York, N. Y.

SHIPPED: 5-4-55, from Boston and Gloucester, Mass.

LIBELED: 6-6-55, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 6-28-55. Default—destruction.

23220. Frozen haddock fillets. (F. D. C. No. 39043. S. No. 49-570 M.)

QUANTITY: 445 10-lb. cartons at Boston, Mass.

SHIPPED: The fillets were from fish caught in the Atlantic Ocean and were unloaded at Boston, Mass., on 4-10-56.

LABEL IN PART: (Carton) "Haddock Fillets Coral Sea Fisheries Fish Pier Boston"; (wrapper) "B. F. Co-op Brand Quick Frozen Haddock To Be Weighed At Time of Sale."

LIBELED: 4-23-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 5-24-56. Consent—claimed by Coral Sea Fisheries, Boston, Mass. Segregated, 410 lbs. destroyed.

23221. Canned mackerel. (F. D. C. No. 38101. S. No. 16-316 M.)

QUANTITY: 26 cases, 48 1-lb. cans each, at Portland, Oreg.

SHIPPED: 8-24-54 and 9-20-54, from Los Angeles, Calif., by Max Rex, t/a Cannery Sales Agency.

LABEL IN PART: (Can) "Excel Brand Mackerel."

LIBELED: 7-25-55, Dist. Oreg.

CHARGE: 402 (a) (3)—contained decomposed substance when shipped.

DISPOSITION: 9-21-55. Default—destruction.

23222. Fresh crabmeat. (F. D. C. No. 38139. S. Nos. 11-706/8 M, 11-710 M.)

INFORMATION FILED: 3-6-56, E. Dist. La., against Reuther's Sea Food Co., Inc., New Orleans, La.

SHIPPED: 5-2-55 and 5-3-55, from Louisiana to Maryland and Texas.

LABEL IN PART: (Can) "Reuther's Seafood Co. Crabmeat One Lb. Net Wt. New Orleans, La. LA 3 C" or "Reuther's Crabmeat One Pound Net Weight Permit No. LA 63 C Reuther's Sea Food Co., Inc. New Orleans, Louisiana."

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 5-16-56. \$1,600 fine.

23223. Canned oysters. (F. D. C. No. 38149. S. No. 11-013 M.)

INFORMATION FILED: 1-19-56, S. Dist. Miss., against Parks Seafood Co., Inc., Gulfport, Miss.

SHIPPED: Between 3-5-55 and 3-29-55, from Mississippi to Alabama.

LABEL IN PART: (Can) "DUNBAR Brand Drained Wt. 4½ Ozs. Oyster Meat Cove Oysters. Distributed by McPhillips Packing Corp. Bayou La Batre, Ala."

CHARGE: 402 (a) (3)—contained decomposed oysters when shipped.

PLEA: Nolo contendere.

DISPOSITION: 6-4-56. \$50 fine.

23224. Oysters. (F. D. C. No. 39086. S. Nos. 20-327/8 M.)

QUANTITY: 154 1-pt. cans at El Paso, Tex.

SHIPPED: 3-14-56, from Baltimore, Md., by Leib Packing Co.

LIBELED: 3-16-56, W. Dist. Tex.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 5-2-56. Default—destruction.

23225. Canned shrimp. (F. D. C. No. 36076. S. No. 47-859 L.)

QUANTITY: 198 cases, 24 5-oz. cans each, at San Juan, P. R.

SHIPPED: 10-14-53, from Houma, La., by Barre Seafood Co.

LABEL IN PART: (Can) "Sea Fare Brand Small Shrimp."

LIBELED: 10-27-53, Dist. P. R.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: On 1-14-54, Barre Seafood Co. filed an answer denying that the article was adulterated as alleged. Thereafter, on 12-1-54, the Government served interrogatories upon the claimant. On 1-27-55, the claimant having consented to the entry of a decree, the court entered an order condemning the article and ordering that it be destroyed.

23226. Frozen breaded shrimp. (F. D. C. No. 39042. S. No. 39-212 M.)

QUANTITY: 252 cases, 24 10-oz. pkgs. each, at East Point, Ga.

SHIPPED: 3-19-56, from Miami, Fla., by South Coast Quick Freezing & Packing Co.

LABEL IN PART: (Pkg.) "Southcoast Frozen Large Fantail Breaded Shrimp."

LIBELED: 4-19-56, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 5-21-56. Default—a portion of the article was delivered to the Food and Drug Administration, and the remainder was destroyed.

FRUITS AND VEGETABLES

JAM

23227. Damson plum jam. (F. D. C. No. 38755. S. Nos. 9-589 M, 9-593 M.)

QUANTITY: 289 2-lb. jars at Los Angeles, Calif.

SHIPPED: 5-25-55, imported from Hamilton, Canada, by Wagstaffe, Ltd.

LABEL IN PART: (Jar) "Wagstaffe Brand Pure Imported Damson Plum Jam."

LIBELED: 11-14-55, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained sharp pit fragments when shipped.

DISPOSITION: 12-21-55. Default—destruction.

VEGETABLES

23228. Dried navy beans. (F. D. C. No. 37433. S. No. 90-505 L.)

QUANTITY: 327 cases, 24 1-lb. bags each, at Hutchinson, Kans.

SHIPPED: 2-16-54, from Saginaw, Mich.

LIBELED: 11-30-54, Dist. Kans.; amended 12-2-54.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 4-4-55. Consent—claimed by Chester B. Brown Co., Morrill, Nebr. Segregated, approximately 200 lbs. destroyed.

23229. Dried pink beans (2 seizure actions). (F. D. C. Nos. 39100, 39103. S. Nos. 28-235/6 M.)

QUANTITY: 996 100-lb. bags at Stockton, Calif.

SHIPPED: The article was shipped on various dates from Robbins, Calif., by Klein Bros. for shipment to various consignees in Puerto Rico.

LIBELED: 3-30-56 and 4-6-56, N. Dist. Calif.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, a fluorine compound, which is unsafe within the meaning of the law since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on dry beans has been prescribed by regulations; and (600-bag lot) 402 (a) (3)—contained rodent urine.

DISPOSITION: 4-24-56. Consent—claimed by Collins & Story, Robbins, Calif. Segregated. The article was recleaned and resacked into new burlap bags. 136 bags of beans which were contaminated with urine were converted to seed.

23230. Dried pink beans. (F. D. C. No. 39098. S. No. 14-781 M.)

QUANTITY: 600 100-lb. sacks at Stockton, Calif.

SHIPPED: 2-20-56, from Knights Landing, Calif., by Sinsheimer Co., for shipment to Puerto Rico.

LIBELED: 3-29-56, N. Dist. Calif.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, a fluorine compound, which is unsafe within the meaning of the law since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on dry beans as the result of postharvest treatment has been prescribed by regulations.

DISPOSITION: 4-17-56. Consent—claimed by Sutter Basin Growers Cooperative, Knights Landing, Calif. The product was reconditioned by cleaning and polishing to remove all of the pesticide chemical from the beans.

23231. Canned corn. (F. D. C. No. 38835. S. Nos. 43-942/3 M.)

QUANTITY: 1,235 cases, 24 1-lb. cans each, at Rogers, Ark.

SHIPPED: During 1955, from Muskogee, Okla., by Griffin Grocery Co.

LABEL IN PART: (Can) "Polar Bear Cream Style Golden Sweet Corn" or "Raider * * * Cream Style White Sweet Corn."

LIBELED: 2-1-56, W. Dist. Ark.

CHARGE: 402 (a) (3)—contained decomposed substance when shipped.

DISPOSITION: 3-16-56. Consent—claimed by Griffin Grocery Co. Segregated, approximately 400 cases destroyed.

23232. Canned corn (2 seizure actions). (F. D. C. Nos. 38833, 38834. S. Nos. 38-076/7 M.)

QUANTITY: 900 cases, 24 cans each, at Little Rock, Ark.

SHIPPED: Between 11-14-55 and 12-27-55, from Hoopeston, Ill., by Illinois Canning Co.

LABEL IN PART: "Pride of Illinois Very Young Cream Style Country Gentleman White Sweet Corn Contents 1-Lb. 1-Oz."

LIBELED: 2-2-56, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained worms and worm fragments when shipped.

DISPOSITION: 2-14-56. Consent—claimed by Illinois Canning Co. Segregated, 437 cases destroyed.

23233. Canned corn. (F. D. C. No. 38824. S. Nos. 30-376/7 M.)

QUANTITY: 375 cases, 24 1-lb., 1-oz. cans each, at Memphis, Tenn.

SHIPPED: 11-10-55, from Hoopeston, Ill., by Illinois Canning Co.

LABEL IN PART: (Can) "Pride of Illinois Very Young Cream Style Country Gentleman White Sweet Corn."

LIBELED: 1-18-56, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained worms and worm fragments when shipped.

DISPOSITION: 2-21-56. Consent—claimed by Illinois Canning Co. Segregated, 131 cases destroyed.

23234. Canned pimentos (2 seizure actions). (F. D. C. Nos. 38693, 38694. S. Nos. 1-808/9 M.)

QUANTITY: 302 cases, 24 cans each, at Raleigh, N. C.

SHIPPED: Prior to 10-13-55, from Woodbury, Ga., by Dromedary Co.

LABEL IN PART: (Can) "Net Wt. 7 Oz. Dromedary Whole Pods Pimientos Fire-Roasted."

LIBELED: 11-23-55, E. Dist. N. C.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 1-26-56. Consent—claimed by Dromedary Co. Segregated, 3½ cases destroyed.

TOMATO PRODUCTS

23235. Tomato juice and tomato puree. (F. D. C. No. 38928. S. Nos. 8-985/6 M.)

QUANTITY: 250 cartons, 12 1-qt., 14-oz. cans each, of tomato juice, and 500 cartons, 6 6-lb., 8-oz. cans each, of tomato puree at Brooklyn, N. Y.

SHIPPED: 11-18-55, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Golden Flow Brand * * * California Tomato Juice [or "Tomato Puree"]."

LIBELED: 1-27-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-8-56. Default—destruction.

23236. Tomato juice and tomato puree. (F. D. C. No. 38890. S. Nos. 48-409/10 M.)

QUANTITY: 98 cartons, 12 1-qt., 14-oz. cans each, of tomato juice, and 98 cartons, 6 6-lb., 8-oz. cans each, of tomato puree at Yonkers and New York, N. Y.

SHIPPED: 11-22-55, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Golden Flow Brand * * * California Tomato Juice [or "Tomato Puree"]."

LIBELED: 1-9-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-23-56. Default—destruction.

23237. Tomato juice. (F. D. C. No. 38737. S. No. 8-984 M.)

QUANTITY: 250 cartons, 12 1-qt., 14-oz. cans each, at Bronx, N. Y.

SHIPPED: 11-19-55, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Golden Flow Brand * * * California Tomato Juice."

LIBELED: 1-18-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-17-56. Default—destruction.

23238. Tomato juice. (F. D. C. No. 38903. S. No. 11-857 M.)

QUANTITY: 149 cases, 12 1-qt., 14-oz. cans each, at Newark, N. J.

SHIPPED: 11-3-55, from Christiana, Pa., by Chas. B. Silver & Son, Inc.

LABEL IN PART: (Can) "Red Cross Brand * * * Tomato Juice."

LIBELED: 1-9-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained fly eggs, maggots, and decomposed tomato material; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 2-15-56. Default—destruction.

23239. Tomato juice. (F. D. C. No. 38857. S. No. 51-814 M.)

QUANTITY: 36 cases, 12 1-qt., 14-oz. cans each, at Cheyenne, Wyo.

SHIPPED: 1-13-56 and 1-23-56, from Brighton, Colo.

LIBELED: 2-29-56, Dist. Wyo.

CHARGE: 402 (a) (3)—contained decomposed tomato material while held for sale.

DISPOSITION: 4-11-56. Default—destruction.

NUTS

23240. Unshelled pecans. (F. D. C. No. 38808. S. No. 40-602 M.)

QUANTITY: 90 30-lb. boxes at St. Paul, Minn.

SHIPPED: 10-10-55, from St. Louis, Mo.

LIBELED: 1-5-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rancid nuts while held for sale.

DISPOSITION: 2-2-56. Consent—claimed by Sunshine Pecan Co., San Antonio, Tex. Segregated, 83 30-lb. cases and 1 9-lb. case denatured.

23241. Unshelled walnuts. (F. D. C. No. 38854. S. No. 40-425 M.)

QUANTITY: 22 100-lb. bags at Hopkins, Minn., in possession of National Tea Co.

SHIPPED: 11-4-55, from Los Angeles, Calif.

LIBELED: 2-21-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine and rodent-gnawed walnuts; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 3-15-56. Consent—claimed by National Tea Co. Segregated, 1,050 lbs. destroyed.

POULTRY

23242. Dressed poultry. (F. D. C. No. 34833. S. Nos. 49-523 L, 49-537 L.)

INFORMATION FILED: 5-27-53, Dist. Del., against Diamond State Poultry Co., Inc., Lewes, Del., and Howard Polin, president, and David H. Polin, secretary-treasurer, of the corporation.

SHIPPED: 9-11-52 and 10-28-52, from Delaware to New Jersey and New York.

CHARGE: 402 (a) (3)—contained decomposed poultry when shipped; and 402 (a) (5)—contained diseased poultry and was in part the product of poultry which had died otherwise than by slaughter.

PLEA: Not guilty.

DISPOSITION: The case was tried without a jury; and, on 10-1-54, the court handed down the following opinion:

LEAHY, *District Judge*: "The criminal information charged defendants with introduction and delivery in interstate commerce of adulterated poultry in violation of 21 U. S. C. §§ 331 and 333. The adulteration claimed was the presence of decomposed and diseased chickens in the shipments. At trial to the Court (jury waived) the Government introduced testimony and documentary proofs to support its charges the poultry was delivered for introduction into interstate commerce by defendants under the circumstances charged in the two counts of the Information.¹

"The defense is 1. the poultry seized by the Government was not introduced into interstate commerce by defendants; 2. the poultry examined by the Government's expert was not a part of the shipments made by defendants on September 11, and October 12, 1952; 3. the poultry was not adulterated at the time of its introduction by defendants in interstate commerce; and 4. individual defendants Howard and David Polin did not aid and abet and are not criminally responsible for the alleged shipments. Analysis and consideration of the facts, as well as the weight to be given the evidence, rejects the defense relied on in this case.

OPINION INCLUDING FINDINGS

"1. The Government's expert examined part of the shipments. These shipments by defendants were from Lewes, Delaware, on September 11 and October 28, 1952, and arrived at dealers in New York and Newark in the early mornings of October 12 and October 29.² Before 7:00 A. M. on September 12 and October 29, Dr. Lewis Tarr, a veterinarian employed by the Food and Drug Administration, examined the poultry at the dealers in New York and Newark.³ The poultry was in boxes marked 'AT'.⁴ The letters 'AT' are used by defendants and no other packers of poultry to designate second-class birds.⁵

"At the September 12 examination (Count I shipment), Dr. Tarr was given a signed statement⁶ by Martin Tankleff of J. A. W. D. Associates identifying the poultry examined as a portion of that received from defendants on September 12. Cross-examination showed identification was not made by Martin Tankleff but by Jack Tankleff⁷ who when called testified after examining GX

¹ Count I:

GX 5 invoice and manifest of defendant Diamond State Poultry Company, Inc., showing shipment of poultry to J. A. W. D. Associates, New York, N. Y., on September 11, 1954.

Count II:

GX 5 invoice and manifest of same defendant showing shipment of poultry to Schnoll and Trenk, Newark, N. J., on October 28, 1954.

Counts I and II:

Testimony of Bernard Bogage, General Manager of same defendant; he recalled both shipments. Tr. 9-10.

² Tr. 62, 71.

³ Tr. 49, 127.

⁴ Tr. 40, 127.

⁵ Tr. 121, 173, 189.

⁶ GX 7.

⁷ Tr. 198.

12 he recalled Dr. Tarr's presence at the J. A. W. D. business establishment on September 12⁸ but he could not recall other details of the signed statement GX 7.⁹ GX 5, the shipping record for September 11, 1952, includes a manifest for 30 crates of 'AT' poultry. On it is a notation in pencil that the four crates were to be put into storage at the request of the Food and Drug Administration. GX 5 also includes a warehouse receipt showing these crates were taken to the Manhattan Storage Company Warehouse and were later re-examined by Dr. Tarr.¹⁰

"As to the October 29 (Count II) examination, Dr. Tarr was given a signed statement¹¹ by David Trenk that the poultry examined was from a shipment made by defendants on October 28. Dr. Tarr admitted he had not witnessed the arrival of the crates in the plant.¹² This simply goes to the creditability of his testimony on his cross-examination. GX 10 contains certified copies of writings relating to the seizure of these particular eleven crates of poultry. Defendant Howard Polin admitted the poultry examined belonged to defendant Diamond State Poultry Company, Inc., and these were the crated poultry examined by Dr. Tarr.¹³ The testimony shows a substantial portion of the poultry consisted of diseased birds;¹⁴ such disease develops only in live birds; such diseased condition could have been discovered prior to shipment;¹⁵ and such condition was the type which could have been visible to a grader in a packing plant.¹⁶

"Defendants' expert, Dr. Schoneweg, testified the presence of the noted disease, i. e., Dr. Tarr's testimony, might not indicate the poultry was diseased at the time of slaughter.¹⁷ As to emaciation Dr. Schoneweg stated he would have to see the birds,¹⁸ but Dr. Tarr did, in fact, see the birds before arriving at his conclusion of emaciation. Dr. Tarr found a greenstruck condition among the poultry and this was a symptom, he said of decomposition.¹⁹

"Poultry is shipped in ice to halt decomposition.²⁰ Defendants always ice poultry before shipment.²¹ The poultry was properly iced²² and decomposition could not have developed during the interstate shipment.²³ Dr. Schoneweg testified, however, decomposition could have commenced in a half hour after being iced under proper climatic conditions.²⁴ This related obviously to a hypothetical situation. There was no evidence of such in the case at bar.

"2. Evidence is clear defendants Howard and David Polin were responsible for the operation of defendant Diamond State Poultry Company, Inc. In response to a notice of a hearing²⁵ defendant David Polin appeared on October 22, 1952, and stated he had instructed his employees to be careful in grading poultry and on occasions opened crates to see if his instructions were followed.²⁶ Defendant Howard Polin stated he periodically checked condition of shipped poultry.²⁷ David Polin discussed with Dr. Tarr disposition of the seized poultry after the September 11 shipment.²⁸ Witness Bogage testified the individual defendants made policy for defendant Diamond State Poultry Company, Inc.²⁹ Individual defendants were the major officers of the corporate defendant.

"3. Evidence establishes a portion of the poultry in Counts I and II was decomposed. Defendants claim the evidence shows only a beginning of decomposition and this does not, as a matter of law, render an article of commerce

⁸ Tr. 70.

⁹ Tr. 76, 78.

¹⁰ Tr. 102.

¹¹ GX 11.

¹² Tr. 188-9.

¹³ Tr. 128.

¹⁴ Tr. 50, 52-3, 108-115, 121-125, 135-6.

¹⁵ Tr. 49, 51, 110-11.

¹⁶ Tr. 178.

¹⁷ Tr. 237-240.

¹⁸ Tr. 241.

¹⁹ Tr. 43, 46, 49, 50, 108, 114, 121, 155-6.

²⁰ Tr. 275.

²¹ Tr. 274.

²² Tr. 40, 127.

²³ Tr. 49.

²⁴ Tr. 236.

²⁵ Under 21 U. S. C. § 335.

²⁶ Tr. 25-6.

²⁷ Tr. 245-6.

²⁸ Tr. 116-119.

²⁹ Tr. 7, 8, 13.

'adulterated' under the statutes.³⁰ I do not think the evidence supports the application of the cases relied on by defendants. The evidence is sufficient, however, to establish the poultry sampled by Dr. Tarr was, in fact, shipped by defendants as charged in the information. GX 7 and 11, statements of Tankleff and Trenk, who received the shipped poultry, are sufficient to demonstrate defendants were the shippers of the poultry. At trial defendants attempted to show by cross-examination identification was not based upon personal knowledge that the poultry examined by Dr. Tarr was the property of defendants. There is no rigid requirement the government must bring as witnesses *all persons* who have handled any particular sample of articles charged with being the subject matter of an illegal interstate shipment. *Pasadena Research Laboratories, Inc., et al., v. United States*, 9 Cir., 169 F. 2d 375, cert. den. 335 U. S. 835.³¹

"4. Under the Food, Drug, and Cosmetic Act, proof of personal participation of an individual defendant is not required to establish guilt if the individual is the responsible person for the operation of the business out of which the violation grows. *United States v. Dotterweich*, 320 U. S. 277, 280-81, 285-6;³² *United States v. Greenbaum*, 3 Cir., 138 F. 2d 437; *United States v. Parfait Powder Puff Co., Inc.*, 7 Cir., 163 F. 2d 1008, cert. den. 332 U. S. 851.

CONCLUSION AND VERDICT

"The evidence at trial supports the charges made in the information. Under the applicable law both corporate and individual defendants are guilty. As there is, however, an identity between individual and corporate defendants, sentence will be measured accordingly. The United States Attorney may apply for a date for sentence at which time a judgment of sentence will dispose of the finding of guilt of all defendants. The conclusion is defendants are guilty as charged."

On 10-29-54, the court fined the corporation \$1,000 on each of two counts and suspended the imposition of sentence against the individuals, placing them on probation for 3 years. On or about 11-8-54, the individual defendants filed a notice of appeal, which subsequently was dismissed pursuant to stipulation of the parties.

³⁰ Defendants rely for support of this proposition on *A. O. Anderson & Company v. United States*, 9 Cir., 284 F. 542; and *United States v. 184 Barrels Dried Whole Eggs*, D. C. Wis., 53 F. Supp. 652.

³¹ At 169 F. 2d 375, at pp. 379-80: "Carried to its logical conclusion, this 'chain of possession' theory would require the Government to prove affirmatively that *each* one of the many mail clerks, Administration clerks and experts, doctors, nurses, express company employees, 'and others', handled and cared for the goods so that changes could not occur while the drugs were in their custody. It must also be shown that the products 'were not tampered with', say the appellants.

"Such a rigorous exaction regarding proof is supported neither by reason nor by authority. If the Government was obliged to establish the absence of 'tampering' by every one who had any contact whatsoever with the drugs, the Act would be incapable of enforcement." And then at p. 382:

"The only suggestions of mishandling are in the form of *dire possibilities* conjured up by resourceful counsel. But possibilities are not proof."

³² In *Dotterweich* at pp. 280-1:

"The prosecution to which *Dotterweich* was subjected is based on a now familiar type of legislation whereby penalties serve as effective means of regulation. Such legislation dispenses with the conventional requirement for criminal conduct—awareness of some wrongdoing. In the interest of the larger good it puts the burden of acting at hazard upon a person otherwise innocent but standing in responsible relation to a public danger. [Citing cases] And so it is clear that shipments like those now in issue are 'punished by the statute if the article is misbranded [or adulterated], and that the article may be misbranded [or adulterated] without any conscious fraud at all. It was natural enough to throw this risk on shippers with regard to the identity of their wares * * * [Citing cases]."

The facts upon which the Court rendered its decision are shown from the dissent in which Mr. Justice Murphy stated, at pp. 285-86:

"Our prime concern in this case is whether criminal sanctions of the Federal Food, Drug, and Cosmetic Act of 1938 plainly and unmistakably apply to the respondent in his capacity as a corporate officer. He is charged with violating § 301 (a) of the Act, which prohibits the introduction or delivery for introduction into interstate commerce of any adulterated or misbranded drug. There is no evidence in this case of any personal guilt on the part of the respondent. There is no proof or claim that he ever knew of the introduction into commerce of the adulterated drugs in question, much less that he actively participated in their introduction. Guilt is imputed to the respondent solely on the basis of his authority and responsibility as president and general manager of the corporation."

23243. Dressed turkeys. (F. D. C. No. 38898. S. No. 37-266 M.)

QUANTITY: 2,165 lbs. in 36 crates at New York, N. Y.

SHIPPED: 12-19-55, from Morristown, Tenn., by Burnett Produce Co.

LIBELED: 1-13-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter and decomposed birds; and 402 (a) (5)—contained diseased birds when shipped.

DISPOSITION: 3-12-56. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

23244. Vitamin preparations. (Inj. No. 280.)

COMPLAINT FOR INJUNCTION FILED: 4-29-54, E. Dist. N. Y., against Bonded Laboratories, Inc., Brooklyn, N. Y., and Hans Lowey, president of the corporation.

CHARGE: The complaint alleged that the defendants had been and still were engaged in manufacturing, selling, and shipping directly to places outside the State of New York, and delivering to a Brooklyn firm for shipment to places outside the State of New York, various vitamin preparations which were adulterated and misbranded as follows:

402 (b) (1)—valuable constituents had been in part omitted or abstracted from a number of the articles; and

403 (a)—the labeling of a number of the articles bore false and misleading statements with respect to the nature and quantity of the ingredients contained in the articles.

The complaint alleged that the adulterated and misbranded conditions of the vitamin preparations resulted from deficiencies in the ingredients of the articles. For example, examination of samples from interstate shipments and deliveries for interstate shipment, made by the defendants of certain vitamin preparations, namely, *Siccoid Special Supplement*, *Bever Miamivites*, and *Zilifer-B tablets*, disclosed that the *Siccoid Special Supplement* contained, in one lot, 50 percent of the declared amount of vitamin D, and, in another lot, 10 percent of the declared amount of vitamin A and 5 percent of the declared amount of vitamin C; that the *Bever Miamivites* contained 10 percent of the declared amount of riboflavin; and that the *Zilifer-B tablets* contained 20 percent of the declared amount of vitamin B₁.

The complaint alleged further that the defendants were well aware that their activities were violative of the Act. Several inspections were made of the defendants' plant in Brooklyn, N. Y., by inspectors of the Food and Drug Administration, between 2-13-51 and 2-8-54, at which times the defendants were informed of certain inadequacies in their control system for the manufacture of the articles, namely, the failure to assay the raw materials used; the lack of care in identifying containers of raw materials, batches of the articles during processing, and the finished articles; the lack of an adequate checking system to insure that the proper amounts of the various chemicals were put into the batches of the chemicals being processed; and the practice of making very few assays of the finished articles.

The defendants were warned that such inadequacies would result in errors of composition and labeling with respect to the articles manufactured, and that such inadequacies would also result in the articles being adulterated and mis-

branded as aforesaid. The defendants had been warned also by 4 seizures and also by a notice of hearing. Despite such warnings, the defendants continued to introduce and deliver for introduction into interstate commerce articles which were adulterated and misbranded as described above.

The complaint alleged also that certain drugs were adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: On 4-29-54, the court entered a temporary restraining order, under which the defendants were temporarily restrained from commission of the acts complained of. Thereafter, with the consent of the parties, the temporary restraining order was continued in effect pending the final determination of the matter.

On 12-12-55, a consent decree of permanent injunction was entered against Bonded Laboratories, Inc., its agents, servants, employees, and representatives, and all and any persons in active concert or participation with them; and against the president of Bonded Laboratories, Inc., whether in connection with such corporation, or independently; enjoining them against introducing or delivering for introduction into interstate commerce any foods and drugs which are adulterated and misbranded as charged in the complaint, and which are manufactured, prepared, and packed by Bonded Laboratories, Inc., without the utilization of good controls necessary to the end that an article of proper composition is purchased and shipped.

23245. Vitamin preparations. (F. D. C. No. 38882. S. Nos. 32-152/3 M, 32-212/3 M.)

QUANTITY: 410 24-oz. btls. of *Hadacol*; 12 cases, 120 packages each, of *Thyavals Vitamin-Mineral Combination*; 50 32-oz btls. of *liquid Rybutol*; and 703 100-gelucap btls. of *Rybutol*, at Philadelphia, Pa.

SHIPPED: Sometime during the 4 years preceding the filing of the libel, from Lafayette, La., Los Angeles, Calif., Chicago, Ill., and Newark, N. J.

RESULTS OF INVESTIGATION: Analyses showed that the articles contained less than the declared amounts of vitamin B₁.

LIBELED: 12-28-56, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the articles while held for sale; and 403 (a)—the label statements (*Hadacol*) "The Recommended Adult Daily Intake of 4 Tablespoonfuls (2 Fl. Ozs.) Contain * * * B₁ (Thiamin Hydrochloride) ----- 6 mg."; (*Thyavals Vitamin-Mineral Combination*) "One Red Thyaval Tablet Formula 621 provides: * * * Vitamin B₁ (thiamin HCl) 10 Mg."; (*liquid Rybutol*) "Each two tablespoonfuls (approx. 28.5 cc) contains: Thiamin Hydrochloride (B₁)----- 15 mg."; and (*Rybutol Gelucaps*) "Each *Rybutol Gelucap* Contains: Vitamin B₁ (Thiamin Chloride) 15 mg." were false and misleading.

DISPOSITION: 1-30-56. Default—destruction.

23246. Vitamin preparation. (F. D. C. No. 39015. S. No. 45-895 M.)

QUANTITY: 9 cases, 24 8-oz. btls. each, at Camden, N. J.

SHIPPED: During 1954, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 67 percent of the declared amount of vitamin B₁.

LIBELED: On or about 4-5-56, Dist. New Jersey.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "The Suggested Daily Adult Dose (2 Fl. Oz.) Will Afford: Vitamins B₁ (Thiamine Hydrochloride) ----- 6 mg." was false and misleading.

DISPOSITION: 5-7-56. Default—delivered to a local hospital after being re-labeled.

23247. Sheffield Hi-B tablets. (F. D. C. No. 38708. S. No. 26-326 M.)

QUANTITY: 346 btls., 100 tablets each, at Little Falls, Minn.

SHIPPED: 3-11-54, from Brooklyn, N. Y., by Robin Pharmacal Corp.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 75 percent of the declared amount of vitamin B₁.

LIBELED: 11-22-55, Dist. Minn.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the statement on the label of the article while held for sale, namely, "1 tablet with each meal and 1 at bedtime provides the following amounts of vitamins and minerals: Vitamin B-1 12 mg.," was false and misleading. 403 (j)—the article purported to be a food for special dietary purposes by reason of its vitamin and mineral content, and its label, when shipped, failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamin B₁, vitamin B₂, iron, iodine, calcium, and phosphorus supplied by the article when consumed in a specified quantity during a period of 1 day; and, since the need in human nutrition for pantothenic acid, choline, biotin, manganese, cobalt, molybdenum, and zinc has not been established, its label failed also to bear the statement "The need for pantothenic acid, choline, biotin, manganese, cobalt, molybdenum, and zinc in human nutrition has not been established."

DISPOSITION: 1-5-56. Default—destruction.

23248. Calcios. (F. D. C. No. 38966. S. No. 24-955 M.)

QUANTITY: 164 cases, 24 jars each, at Seattle, Wash.

SHIPPED: During July 1952, from Greenvale, Long Island, N. Y.

LABEL IN PART: (Jar) "Calcios A diet supplement of young bone, marrow, protein, and essential minerals in colloidal form for better assimilation; calcium, cobalt, iron, magnesium, manganese, phosphorus, potassium, sodium, sulphur, and zinc. These elements are in trace amounts and with naturally occurring associated factors as found in young bone and marrow. Colloidal Health Products Inc. 1430 Ellicott Avenue West Seattle 99, Washington 2¼ Av. Oz. Spectographic analysis also shows present in trace amounts: barium, lithium, silicon, strontium, titanium, copper, boron."

RESULTS OF INVESTIGATION: The article was shipped in interstate commerce in bulk, and, after its receipt, was repackaged and relabeled by the consignee.

LIBELED: 3-1-56, W. Dist. Wash.

CHARGE: 403 (j)—the label of the article, while held for sale, failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirements of calcium, iron, and phosphorus, and the quantities of cobalt, magnesium, manganese, potassium, sodium, sulfur, and zinc supplied

by the article when consumed in a specified quantity during a period of one day; and since the need in human nutrition for cobalt, manganese, and zinc has not been established, its label failed to bear the statement "The need for cobalt, manganese, and zinc in human nutrition has not been established."

DISPOSITION: 5-28-56. Consent—claimed by Colloidal Health Products, Inc., and relabeled.

MISCELLANEOUS FOODS

23249. Spudsaver-X. (F. D. C. No. 38519. S. Nos. 8-174 M, 10-226/8 M.)

INFORMATION FILED: 3-29-56, N. Dist. Ill., against Lois R. Schmidt, t/a Pittsburgh Chemical Laboratory, Pittsburgh, Pa., Time Chemical, Inc., t/a Federal Chemical Div., Chicago, Ill., and Seymour Baskin, president of Time Chemical, Inc.

SHIPPED: Between 8-6-54 and 1-25-55, from Illinois to Minnesota and Oklahoma.

LABEL IN PART: (Jars) "Spudsaver-X Crystalline-Anti-Oxidant Pittsburgh Chemical Laboratory 715 Penn Avenue-Pittsburgh 22, Pa. Net Contents—One Pound Spudsaver does not contain any Sodium BiSulfite. Ingredients Sodium Bicarbonate, Citric Acid, Ascorbic Acid, Sodium Benzoate [or "Net Contents—One Pound Active Ingredients, Citric Acid, Sodium Bicarbonate, Mono Sodium Phosphate, Ascorbic Acid"]"; (cans) "Spudsaver-X Crystalline-Anti-Oxidant 5 Pounds Net Pittsburgh Chemical Laboratory Pittsburgh, Pa., U. S. A. Spudsaver does not contain any Sodium BiSulfite. Ingredients Sodium Bicarbonate, Citric Acid, Ascorbic Acid, Sodium Benzoate."

CHARGE: 402 (b) (2)—a product consisting essentially of sodium bisulfite had been substituted for a product represented to contain sodium bicarbonate, ascorbic acid, citric acid, and sodium benzoate, or for a product represented to contain citric acid, monosodium phosphate, sodium bicarbonate, and ascorbic acid; and 403 (a)—the label statements "Ingredients Sodium Bicarbonate, Ascorbic Acid, Citric Acid, Sodium Benzoate," "Active Ingredients Citric Acid, Mono Sodium Phosphate, Sodium Bicarbonate, Ascorbic Acid," and "Spudsaver does not contain any Sodium BiSulfite" were false and misleading since the article consisted essentially of sodium bisulfite.

PLEA: Guilty.

DISPOSITION: 5-8-56. Schmidt fined \$750; corporation, \$200; and Baskin, \$175. Costs assessed generally against all defendants.

23250. Coal-tar colors. (F. D. C. No. 38187. S. Nos. 19-379/80 M.)

QUANTITY: 228 ½-fl. oz. btls. of "Seely's Liquid Color Red" and 132 ½-fl. oz. btls. of "Seely's Liquid Color Yellow" at Cincinnati, Ohio.

SHIPPED: 4-26-55, from Detroit, Mich., by Seely Mfg. Co.

LABEL IN PART: (Cartons) "Red Liquid Color * * * Seely's Contains F. D. C. Red No. 2 alcohol-glycerine-water This certified dye contained when packed 3% pure coal tar dye. * * * Part of Certified Lot No. 161 1B" and "Yellow Liquid Color * * * Seely's * * * Contains F. D. C. Yellow No. 5 alcohol-glycerine-water This certified dye contained when packed 4% coal tar dye * * * Part of Certified Lot No. 15518A"; (btls.) "Seely's Liquid Color Red Containing F. D. C. No. 2 Propylene-Glycol-Water This Certified Die Contained When Packed 3% Pure Coal Tar Die" and "Seely's Liquid Color Yellow Containing F. D. C. Yellow No. 5 Alcohol-Glycerine-

Water This Certified Die Contained When Packed 4% Pure Coal Tar Die.”
RESULTS OF INVESTIGATION: Examination showed that the 228-bottle lot did not contain propylene glycol or glycerin; that the 132-bottle lot contained less than the declared amount of dye; and that both lots contained coal-tar dyes not certified for food use.

LIBELED: 6-15-55, S. Dist. Ohio.

CHARGE: 402 (c)—both lots, when shipped, contained a coal-tar color other than one from a batch certified in accordance with the requirements of the law; 403 (a)—(228-btl. lot) the label statements “Contains * * * glycerine * * * This certified dye contained when packed 3% pure coal tar dye. * * * Part of Certified Lot No. 161 1B” and “Containing * * * Propylene-Glycol * * * This Certified Die Contained When Packed 3% Pure Coal Tar Die” were false and misleading, and (132-btl. lot) the label statements “This certified dye contained when packed 4% coal tar dye * * * Part of Certified Lot No. 15518A” and “This Certified Die Contained When Packed 4% Pure Coal Tar Die” were false and misleading.

DISPOSITION: 7-20-55. Default—destruction.

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| | N. J. No. | | N. J. No. |
|------------------------------|--------------------------|------------------------------------|---------------------------|
| Artichoke egg noodles | 23207 | Honey | 23212, 23213 |
| Beans, navy, dried | 23228 | Jam, damson plum | 23227 |
| pink, dried | 23229, 23230 | Macaroni and noodle products | 23205- |
| Bever Miamivites | ¹ 23244 | | 23207 |
| Butter | 23214 | Mackerel, canned | 23221 |
| Calcios | 23248 | Milk, goat, canned evaporated | 23217 |
| Candy. See Confectionery. | | nonfat dry | 23218 |
| Cereals and cereal products | 23201- | skim, canned concentrated | 23216 |
| | 23209 | Navy beans, dried | 23228 |
| Cheese, ricotta | 23215 | Nonfat dry milk | 23218 |
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| Colors, coal-tar | 23250 | noodle products. | |
| Confectionery | 23210-23213 | Nuts | 23240, 23241 |
| Corn, canned | 23231-23233 | Oysters | 23224 |
| Crabmeat, fresh | 23222 | canned | 23223 |
| Dairy products | 23214-23218 | Pecans, unshelled | 23240 |
| Damson plum jam | 23227 | Pimentos, canned | 23234 |
| Fish and shellfish | ² 23219-23226 | Popcorn, unpopped | 23208 |
| Flour | 23201-23204 | Poultry | ³ 23242, 23243 |
| Fruits and vegetables | 23227-23239 | Ricotta cheese | 23215 |
| jam | 23227 | Rybutol | 23245 |
| tomato products | 23235-25239 | Seashells, wheat and soy | 23207 |
| vegetables | 23228-23234 | Sheffield Hi-B tablets | 23247 |
| Goat milk, canned evaporated | 23217 | Shellfish. See Fish and shellfish. | |
| Hadacol | 23245 | Shrimp, canned | ² 23225 |
| Haddock fillets, frozen | 23220 | frozen, breaded | 23226 |

¹ (23244) Injunction issued.
² (23225) Seizure contested.
³ (23242) Prosecution contested. Contains opinion and findings of the court.

| | N. J. No. | | N. J. No. |
|---|--------------------|---|--------------------------|
| Siccoid Special Supplement..... | ¹ 23244 | Vegetables. <i>See</i> Fruits and vegetables. | |
| Skim milk, canned concentrated_ | 23216 | Vitamin, mineral, and other products of special dietary significance..... | ¹ 23244-23248 |
| Spudsaver-X..... | 23249 | Walnuts, unshelled..... | 23241 |
| Thyavals Vitamin-Mineral Combination..... | 23245 | Wheat..... | 23209 |
| Tomato juice..... | 23235-23239 | Zilifer-B tablets..... | ¹ 23244 |
| puree..... | 23235, 23236 | | |

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

| | N. J. No. | | N. J. No. |
|--|--------------------|---|--------------------|
| Ashley Milk Co.: | | Greeley Elevator Co.: | |
| canned concentrated skim milk..... | 23216 | wheat..... | 23209 |
| Barre Seafood Co.: | | Griffin Grocery Co.: | |
| canned shrimp..... | ² 23225 | canned corn..... | 23231 |
| Baskin, Seymour: | | Hawk Flour Mills, Inc.: | |
| Spudsaver-X..... | 23249 | flour..... | 23201 |
| Bonded Laboratories, Inc.: | | Hughes, B. H.: | |
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| flour..... | 23202 | Klein Bros.: | |
| Colloidal Health Products, Inc.: | | dried pink beans..... | 23229 |
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| Conservation Creameries, Inc.: | | oysters..... | 23224 |
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| frozen haddock fillets..... | 23220 | McPhillips Packing Corp.: | |
| D'Amico, G., Macaroni Co., Inc.: | | canned oysters..... | 23223 |
| egg noodles..... | 23206 | Milk Foods, Inc.: | |
| De-Raef Corp.: | | canned evaporated goat milk..._ | 23217 |
| nonfat dry milk..... | 23218 | National Tea Co.: | |
| DeStafeno, S. H.: | | unshelled walnuts..... | 23241 |
| ricotta cheese..... | 23215 | Parks Seafood Co., Inc.: | |
| Diamond State Poultry Co., Inc.: | | canned oysters..... | 23223 |
| dressed poultry..... | ³ 23242 | Pfaffman Co.: | |
| Dromedary Co.: | | wheat and soy seashells and artichoke egg noodles..... | 23207 |
| canned pimentos..... | 23234 | Phoenix Candy Co.: | |
| Federal Chemical Div. <i>See</i> Time Chemical, Inc. | | candy..... | 23210 |
| Geral-Deene Dairy Products: | | Pittsburgh Chemical Laboratory. <i>See</i> Schmidt, L. R. | |
| ricotta cheese..... | 23215 | Polin, D. H., and Howard: | |
| Goshen Cheese Co., Inc.: | | dressed poultry..... | ³ 23242 |
| ricotta cheese..... | 23215 | Popcorn Growers Exchange. <i>See</i> Johnson, J. F. | |

¹ (23244) Injunction issued.² (23225) Seizure contested.³ (23242) Prosecution contested. Contains opinion and findings of the court.

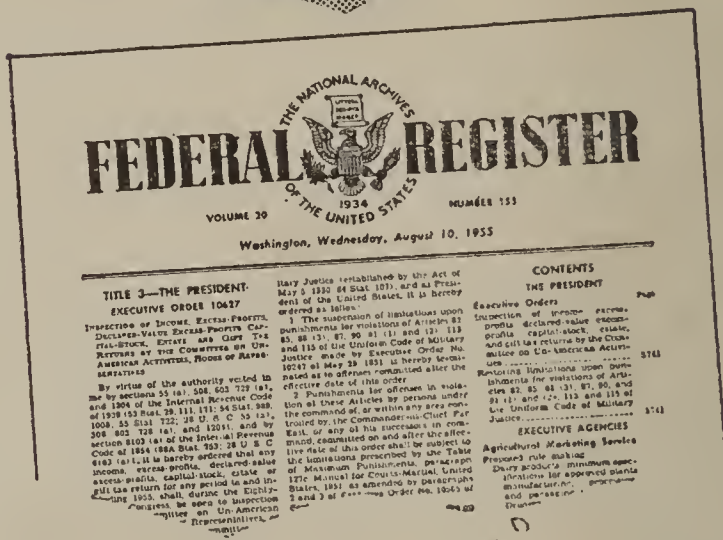
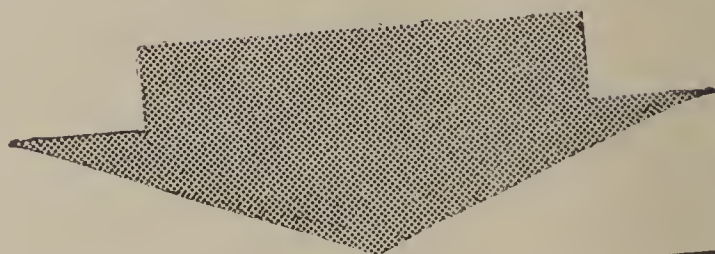
| | N. J. No. | | N. J. No. |
|--------------------------------|--------------|--------------------------------------|-----------|
| Pure Foods Corp. : | | Silver, Chas. B., & Son, Inc. : | |
| tomato juice----- | 23235-23237 | tomato juice----- | 23238 |
| puree ----- | 23235, 23236 | Sinsheimer Co. : | |
| Reuther's Sea Food Co., Inc. : | | dried pink beans----- | 23230 |
| fresh crabmeat----- | 23222 | South Coast Quick Freezing & | |
| Rex, Max : | | Packing Co. : | |
| canned mackerel----- | 23221 | frozen breaded shrimp----- | 23226 |
| Robin Pharmacal Corp. : | | Supreme Candy Co. <i>See</i> Wellons | |
| Sheffield Hi-B tablets----- | 23247 | Candy Co. | |
| Say-Lac Sales Co., Inc. : | | Time Chemical, Inc. : | |
| nonfat dry milk----- | 23218 | Spudsaver-X----- | 23249 |
| Schmidt, L. R. : | | Wagstaffe, Ltd. : | |
| Spudsaver-X----- | 23249 | damson plum jam----- | 23227 |
| Seely Mfg. Co. : | | Wellons Candy Co. : | |
| coal-tar colors----- | 23250 | candy----- | 23211 |

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Departments of the Federal Government.

U. S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23251-23300

FOODS

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which default or consent decrees of condemnation were entered and (2) criminal proceedings which were terminated upon a plea of *nolo contendere*. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firm* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., April 4, 1947.

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*SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23251-23300*

Adulteration, Section 402 (a) (2), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; or such tolerance had been so prescribed, and the quantity of the pesticide chemical was in excess of the tolerance.

Misbranding, Section 403 (a), the labeling of the article was false and misleading.

BEVERAGES AND BEVERAGE MATERIALS*

23251. Green coffee. (F. D. C. No. 39014. S. No. 29-183 M.)

QUANTITY: 105,000 lbs. at Freehold, N. J.

SHIPPED: 3-7-56, from Colombia, South America.

RESULTS OF INVESTIGATION: An investigation revealed that the article was submerged for approximately 48 hours in filthy Hudson River water at Hoboken, N. J., because of a lighter sinking.

LIBELED: 4-2-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained filthy Hudson River water; and 402 (a) (4)—held under insanitary conditions in the Hudson River.

DISPOSITION: 7-31-56. Consent—destruction.

23252. Green coffee. (F. D. C. No. 38745. S. No. 36-904 M.)

QUANTITY: 3 100-lb. bags at Brooklyn, N. Y.

SHIPPED: Between 8-21-53 and 9-11-53, from foreign countries.

LIBELED: 12-20-55, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained moldy coffee beans while held for sale.

DISPOSITION: 3-8-56. Default—destruction.

*See also Nos. 23282-23284.

23253. Coffee beans. (F. D. C. No. 38675. S. No. 36-894 M.)

QUANTITY: 8 150-lb. bags at Brooklyn, N. Y.

SHIPPED: 7-21-55, from Colombia, South America.

LIBELED: 11-15-55, E. Dist. N. Y.

CHARGE: 402 (c)—contained, while held for sale, a coal-tar color other than one from a batch that had been certified in accordance with the regulations.

DISPOSITION: 2-14-56. Default—destruction.

23254. Coffee beans. (F. D. C. No. 38700. S. No. 36-891 M.)

QUANTITY: 600 lbs. in 6 bags at New York, N. Y.

SHIPPED: 8-4-54, from Ethiopia.

LIBELED: 11-29-55, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects, foreign material, and decomposed beans while held for sale.

DISPOSITION: 12-28-55. Default—destruction.

23255. Coffee beans. (F. D. C. No. 38670. S. No. 36-892 M.)

QUANTITY: 2 150-lb. bags at New York, N. Y.

SHIPPED: 7-21-55, from Colombia, South America.

LIBELED: 11-29-55, S. Dist. N. Y.

CHARGE: 402 (c)—contained, while held for sale, a coal-tar color other than one from a batch that had been certified in accordance with the regulations.

DISPOSITION: 1-13-56. Default—destruction.

23256. Coffee chaff. (F. D. C. No. 38665. S. No. 36-893 M.)

QUANTITY: 23 50-lb. bags at Brooklyn, N. Y.

SHIPPED: From a foreign country.

LIBELED: 11-4-55, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and insect parts while held for sale.

DISPOSITION: 2-14-56. Default—destruction.

CEREALS AND CEREAL PRODUCTS

FLOUR

23257. Flour. (F. D. C. No. 39285. S. No. 49-237 M.)

QUANTITY: 500 100-lb. bags at Chicago, Ill., in possession of West Side Warehouse Co.

SHIPPED: 2-20-56, from Houston, Tex.

LIBELED: 6-20-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-17-56. Consent—claimed by Urban F. Myers & Co., Chicago, Ill. Converted to animal feed.

23258. Flour. (F. D. C. No. 39238. S. No. 49-233 M.)

QUANTITY: 116 100-lb. bags at Chicago, Ill., in possession of Goose Island Warehouse.

SHIPPED: 2-23-56, from Dover, Ohio.

LIBELED: 5-16-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-8-56. Default—destruction.

23259. Flour. (F. D. C. No. 39260. S. No. 19-501 M.)

QUANTITY: 280 25-lb. bags, 39 10-lb. bags, and 89 5-lb. bags at Lexington, Ky.

SHIPPED: 4-27-56, from Rainsboro, Ohio, by Frank L. Worley Flour Mill.

LABEL IN PART: (Bag) "Worley's Fancy Best Patent Flour Bleached Phosphated 'Enriched.'"

LIBELED: 6-1-56, E. Dist. Ky.

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 6-25-56. Default—consumption by animals.

MISCELLANEOUS CEREALS

23260. Unpopped popcorn (4 seizure actions). (F. D. C. Nos. 38083, 38084, 38221, 38222. S. Nos. 25-721/4 M, 25-726 M, 25-728/32 M, 25-738 M, 26-007 M, 26-115 M.)

QUANTITY: 142 cases, 24 10-oz. cans each; 256 cases, 24 1-lb. pkgs. each; 287 cases, 12 2-lb. pkgs. each; 20 cases, 6 5-lb. bags each; 72 25-lb. bags; and 199 100-lb. bags, at Faribault and Minneapolis, Minn.

SHIPPED: Between 9-30-54 and 5-21-55, from Schaller, Iowa, by Central Popcorn Co.

LABEL IN PART: (Pkg.) "Jack Sprat * * * Pop Corn"; (bag.) "Bango [or "Bango Yellow" or "Bango Brand Yellow"] Hybrid Pop Corn" or "Bang-O Brand Hybrid White Hulless [or "Yellow Hybrid"] Pop Corn"; (can) "Bang-O White Pop Corn Hulless."

LIBELED: 6-30-55 and 7-1-55 (2 libels filed on each date), Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta, rodent urine, insects, and rodent- and insect-gnawed kernels when shipped; and 402 (a) (4)—the popcorn, with the exception of 69 cases, 12 2-lb. pkgs. each, at Faribault, Minn., was prepared under insanitary conditions.

DISPOSITION: 7-22-55. Consent—claimed by Central Popcorn Co. Segregated, 7,376 lbs. converted to animal feed.

23261. Unpopped popcorn. (F. D. C. No. 39131. S. No. 30-358 M.)

QUANTITY: 63 100-lb. bags and 200 50-lb. bags at Memphis, Tenn.

SHIPPED: 4-3-56, from Tarkio, Mo.

LIBELED: 5-21-56, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 6-7-56. Consent—claimed by Manley, Inc., Kansas City, Mo. The article was satisfactorily reconditioned by fumigation and cleaning.

23262. Unpopped popcorn. (F. D. C. No. 38753. S. No. 26-335 M.)

QUANTITY: 15 100-lb. bags at Burlington, Iowa.

SHIPPED: 7-1-55, from Kimmell, Ind.

LIBELED: 11-9-55, S. Dist. Iowa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-28-55. Default—consumption by animals.

23263. Rice. (F. D. C. No. 39149. S. Nos. 41-042/3 M.)

QUANTITY: 264 100-lb. bags at Cedar Rapids, Iowa, in possession of Quaker Oats Co.

SHIPPED: 2-24-56 and 3-2-56, from Sacramento and Woodland, Calif.

LIBELED: 6-20-56, N. Dist. Iowa.

CHARGE: 402 (a) (3)—contained bird excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-14-56. Consent—claimed by Quaker Oats Co. Segregated, 1,088 lbs. converted to animal feed.

23264. Bulk wheat. (F. D. C. No. 39137. S. No. 33-827 M.)

QUANTITY: 84,000 lbs. at North Kansas City, Mo.

SHIPPED: 5-17-56, from Bird City, Kans., by Bird City Equity Elevator.

LIBELED: 5-28-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 5-29-56. Consent—claimed by Equity Union Grain Co., Kansas City, Mo. Converted to stock feed.

FISH AND SHELLFISH

23265. Frozen chubs. (F. D. C. No. 39309. S. No. 47-694 M.)

QUANTITY: 625 lbs. at New York, N. Y.

SHIPPED: 6-26-56, from South Haven, Mich.

LIBELED: 8-6-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 8-29-56. Default—destruction.

23266. Frozen Spanish mackerel. (F. D. C. No. 39310. S. No. 47-692 M.)

QUANTITY: 603 lbs. at New York, N. Y.

SHIPPED: On unknown dates from outside the State of New York.

LIBELED: 8-6-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 9-4-56. Default—destruction.

23267. Frozen Northern pike. (F. D. C. No. 39305. S. No. 47-695 M.)

QUANTITY: 445 lbs. at New York, N. Y.

SHIPPED: 1-15-56 and 1-18-56, from Montreal, Canada.

LIBELED: 8-6-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 8-29-56. Default—destruction.

23268. Crabmeat. (F. D. C. No. 39216. S. No. 46-477 M.)

QUANTITY: 5 bbls. containing a total of 550 1-lb. cans at Yeadon, Pa.

SHIPPED: 6-18-56, from Onancock, Va., by Eastern Shore Seafood Co.

LABEL IN PART: (Can) "Pride of the Shore Crabmeat."

LIBELED: 6-19-56, E. Dist. Pa.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 6-21-56. Consent—destruction.

23269. Crabmeat. (F. D. C. No. 39212. S. No. 765 M.)

QUANTITY: 4 bbls. containing a total of 403 1-lb. cans at Baltimore, Md.

SHIPPED: 4-20-56, from Eastpoint, Fla., by Eastpoint Seafood.

LABEL IN PART: (Can) "Eastpoint Seafood FLA 47C Special [or "Claw" or "Backfin"] Crabmeat * * * Eastpoint, Fla."

LIBELED: On or about 4-24-56, Dist. Md.

CHARGE: 402 (a) (3)—contained *Escherichia coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-14-56. Default—destruction.

23270. Crabmeat (2 seizure actions). (F. D. C. Nos. 39210, 39211. S. Nos. 762 M, 39-513 M.)

QUANTITY: 327 1-lb. cans at New Orleans, La.

SHIPPED: 4-4-56 and 4-16-56, from Tallahassee, Fla., by Barwick Bros.

LABEL IN PART: (Can) "Barwick Bros. Crab House * * * Crab Meat * * * Panacea, Fla.," or "Carrabelle Crab Plant * * * Crab Meat * * * Carrabelle, Fla."

RESULTS OF INVESTIGATION: Examination showed that the article was contaminated with *E. coli* of fecal origin.

LIBELED: 4-16-56 and 4-18-56, E. Dist. La.

CHARGE: 402 (a) (3)—contained a filthy animal substance; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-16-56 and 5-18-56. Default—destruction.

23271. Crabmeat. (F. D. C. No. 39217. S. No. 16-854 M.)

QUANTITY: 2 bbls. containing a total of 220 1-lb. cans at Philadelphia, Pa.

SHIPPED: 6-19-56, from Onancock, Va., by Eastern Shore Seafood Co.

LABEL IN PART: (Can) "Pride of the Shore Crabmeat."

LIBELED: 6-20-56, E. Dist. Pa.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 6-21-56. Consent—destruction.

23272. Crabmeat. (F. D. C. No. 39213. S. No. 20-438 M.)

QUANTITY: 105 1-lb. cans at Baltimore, Md.

SHIPPED: 4-28-56, from Jacksonville, Fla., by Beaver Street Fisheries, Inc.

LABEL IN PART: (Can) "St. John's Fisheries FLA 73C Deluxe [or "Cocktail Lump"] Crabmeat * * * Jacksonville, Fla."

LIBELED: On or about 5-2-56, Dist. Md.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-22-56. Default—destruction.

23273. Oysters. (F. D. C. No. 39095. S. No. 17-136 M.)

QUANTITY: 200 1-pt. cans at Pittsburgh, Pa.

SHIPPED: 3-21-56, from Weems, Va., by E. I. Webb & Co.

LABEL IN PART: (Can) "Fresh Oysters Standards Va 88 3G31 Stewing Size Moonlight Bay Brand."

LIBELED: 3-23-56, W. Dist. Pa.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 3-26-56. Consent—delivered to a charitable institution.

23274. Canned oysters. (F. D. C. No. 39150. S. No. 27-313 M.)

QUANTITY: 24 cases, 24 8-oz. cans each, at Sylacauga, Ala.

SHIPPED: 5-7-56, from Biloxi, Miss., by Weems Bros. Seafood Co.

LABEL IN PART: (Can) "Gulfview Brand * * * Oysters."

LIBELED: 6-20-56, N. Dist. Ala.

CHARGE: 402 (a) (3)—contained decomposed oysters when shipped.

DISPOSITION: 7-20-56. Default—destruction.

23275. Frozen breaded shrimp. (F. D. C. No. 39261. S. No. 20-536 M.)

QUANTITY: 25 cases, 12 4-lb. pkgs. each, at Washington, D. C.

SHIPPED: 5-14-56, from Miami, Fla., by Gulf Stream Quick Frozen Foods, Inc.

LABEL IN PART: (Pkg.) "Gulf Stream Brand * * * Quick Frozen Jumbo Breaded Fantail Shrimp."

LIBELED: 5-29-56, Dist. Columbia.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 7-11-56. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT*

23276. Raisins. (F. D. C. No. 39185. S. No. 53-001 M.)

QUANTITY: 37 30-lb. cases at New Orleans, La.

SHIPPED: 5-25-56, from Del Rey, Calif.

LIBELED: 8-3-56, E. Dist. La.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-11-56. Default—destruction.

FRESH FRUIT

23277. Fresh blueberries. (F. D. C. No. 39226. S. No. 49-852 M.)

QUANTITY: 16 crates, 24 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-27-56, from Harrington, Maine, by Ada Anderson.

LIBELED: 8-28-56, Dist. Mass.

*See also No. 23294.

CHARGE: 402 (a) (3)—contained maggots when shipped.

DISPOSITION: 9-10-56. Default—destruction.

VEGETABLES

23278. Dried beans. (F. D. C. No. 39107. S. Nos. 15-739/40 M.)

QUANTITY: 167 100-lb. bags at Stockton, Calif.

SHIPPED: The article was delivered at Stockton, Calif., on or about 3-1-56 and 3-6-56, for shipment to Puerto Rico.

RESULTS OF INVESTIGATION: An inspection of Collins and Story Warehouse, Robbins, Calif., where the article had been stored, revealed the existence of insanitary conditions which would result in the contamination of the article.

LIBELED: 4-9-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine when shipped and while in interstate commerce; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-24-56. Consent—claimed by Collins and Story. 144 bags denatured for use as seed.

23279. Dried black-eyed peas. (F. D. C. No. 39018. S. No. 1-444 M.)

QUANTITY: 700 100-lb. bags at East Point, Ga.

SHIPPED: 3-12-56, from Mineola, Tex., by Benham & Co.

LIBELED: 4-4-56, N. Dist. Ga.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a fluorine compound, which is unsafe within the meaning of the law since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on dried peas as the result of postharvest treatment has been prescribed by regulations.

DISPOSITION: 4-16-56. Consent—claimed by Bean Growers Association of California, Sacramento, Calif. Segregated, 2,200 lbs. denatured.

23280. Dried black-eyed peas. (F. D. C. No. 39117. S. No. 27-212 M.)

QUANTITY: 445 100-lb. bags at Dothan, Ala.

SHIPPED: 3-1-56, from Robbins, Calif., by Bean Growers Association of California.

LABEL IN PART: (Bag) "Blackeyes."

LIBELED: 4-26-56, M. Dist. Ala.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a fluorine compound, which is unsafe within the meaning of the law since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on dried peas as the result of postharvest treatment has been prescribed by regulations.

DISPOSITION: 5-21-56. Consent—claimed by W. M. Jones, t/a J. E. Stembridge & Co. The article was satisfactorily reconditioned by recleaning and repolishing.

23281. Frozen spinach. (F. D. C. No. 39235. S. No. 47-591 M.)

QUANTITY: 198 cartons, 24 10-oz. pkgs. each, at Linden, N. J.

SHIPPED: 4-19-56, from Nashville, Tenn., by Stokely-Van Camp, Inc.

LABEL IN PART: (Pkg.) "Pictsweet Frozen Leaf Spinach."

LIBELED: 5-16-56, Dist. N. J.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of the law since the quantity of DDT contained on the article was greater than the tolerance fixed by regulations for such pesticide chemical on fresh spinach.

DISPOSITION: 6-26-56. Default—destruction.

TOMATO PRODUCTS

23282. Tomato cocktail. (F. D. C. No. 39007. S. No. 24-316 M.)

QUANTITY: 74 cartons, 96 6-oz. cans each, at Springfield, Mass.

SHIPPED: 2-23-56, from Gardena, Calif., by Pure Foods Corp.

LABEL IN PART: (Can) "Sunburst Tomato Cocktail."

LIBELED: 3-22-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 6-4-56. Default—destruction.

23283. Tomato juice. (F. D. C. No. 39050. S. No. 46-377 M.)

QUANTITY: 397 cases, 24 cans each, at Philadelphia, Pa.

SHIPPED: 3-5-56, from Silver Creek, N. Y., by Silver Creek Preserving Corp.

LABEL IN PART: (Can) "Penn Treaty Tomato Juice * * * Contents 1 Pt. 2 Fl. Oz."

LIBELED: 4-25-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-28-56. Default—destruction.

23284. Tomato juice. (F. D. C. No. 38973. S. No. 23-534 M.)

QUANTITY: 31 cases, 12 1-qt., 14-oz. cans each, at Keene, N. H.

SHIPPED: 12-22-55, from Springfield, Mass., by Springfield Sugar & Products Co.

LABEL IN PART: (Can) "Libby's Tomato Juice."

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 2-29-56, Dist. N. H.

CHARGE: 402 (a) (3)—contained decomposed substance when shipped.

DISPOSITION: 6-21-56. Default—destruction.

NUTS*

23285. Cashew nuts. (F. D. C. No. 38880. S. No. 25-121 M.)

QUANTITY: 5 30-lb. cases at Seattle, Wash.

SHIPPED: 12-6-55, from San Francisco, Calif., by Martin Donig Nut Co.

LIBELED: 1-13-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained insects, insect parts, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 3-15-56. Default—consumption by animals.

*See also No. 23294.

23286. Shelled pecans. (F. D. C. No. 38823. S. No. 21-444 M.)

QUANTITY: 2 30-lb. cartons and 1 20-lb. carton at Wichita, Kans.

SHIPPED: 11-28-55, from Muskogee, Okla.

LIBELED: 1-20-56, Dist. Kans.

CHARGE: 402 (a) (3)—contained larvae while held for sale.

DISPOSITION: 3-3-56. Default—destruction.

23287. Unshelled walnuts. (F. D. C. No. 39085. S. No. 40-433 M.)

QUANTITY: 15 100-lb. bags at Albert Lea, Minn., in possession of Western Grocer Co.

SHIPPED: 11-17-55, from San Francisco, Calif.

LIBELED: 3-15-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-23-56. Consent—claimed by Western Grocer Co., a division of Consolidated Foods Corp. Segregated, 424 lbs. denatured.

POULTRY

23288. Dressed poultry. (F. D. C. No. 39101. S. No. 35-251 M.)

QUANTITY: 20 boxes containing a total of 1,000 lbs. at Knoxville, Tenn.

SHIPPED: 3-2-56, from Mammoth Spring, Ark., by Franz Food Products, Inc.

LIBELED: 3-30-56, E. Dist. Tenn.

CHARGE: 402 (a) (3)—contained decomposed birds when shipped.

DISPOSITION: 5-7-56; amended 5-10-56. Consent—destruction.

23289. Dressed poultry. (F. D. C. No. 38947. S. No. 37-274 M.)

QUANTITY: 557 lbs. in 7 crates at New York, N. Y.

SHIPPED: 12-29-55, from Willimantic, Conn., by Eastern Dressed Poultry Co.

LIBELED: 2-20-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained extensively bruised birds; and 402 (a) (5)—contained diseased birds when shipped.

DISPOSITION: 3-12-56. Default—destruction.

23290. Dressed poultry. (F. D. C. No. 38951. S. No. 23-202 M.)

QUANTITY: 280 lbs. in 5 crates at Boston, Mass.

SHIPPED: 2-7-56, from Londonderry, N. H., by Arcidy Poultry Co.

LIBELED: 2-13-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained extensively bruised birds; and 402 (a) (5)—contained diseased birds when shipped.

DISPOSITION: 3-12-56; amended 3-23-56. Default—destruction.

23291. Dressed poultry. (F. D. C. No. 38929. S. No. 20-492 M.)

QUANTITY: 4 crates, each containing 69, 70, or 72 lbs., at Washington, D. C.

SHIPPED: 1-17-56, from Berlin, Md., by Acme Poultry Corp.

LABEL IN PART: (Crate) "Acme Brand Fresh Killed Ice Packed Poultry
Fresh Dressed Extra Fancy New York Dressed Maryland Poultry."

LIBELED: 1-27-56, Dist. Columbia.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter when shipped.

DISPOSITION: 3-12-56. Default—consumption by animals.

23292. Frozen dressed turkeys. (F. D. C. No. 38976. S. No. 36-011 M.)

QUANTITY: 74 cartons, 1 turkey each, at Chicago, Ill.

SHIPPED: 12-15-55, from Cleveland, Ohio, by Herbert Newman.

LABEL IN PART: (Carton) "Ready To Cook Delicious Dressed Turkeys."

LIBELED: 3-5-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed turkeys when shipped.

DISPOSITION: 4-3-56. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

23293. Chili peppers. (F. D. C. No. 38938. S. No. 9-297 M.)

QUANTITY: 32 100-lb. bags at Terminal Island, Calif., in possession of Crescent Wharf & Warehouse Co.

SHIPPED: 11-5-55, from Moji City, Japan.

LIBELED: 2-7-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent excreta, insect-infested chili peppers, and moldy chili peppers; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 3-5-56. Default—destruction.

23294. Ground cumin, shredded coconut, celery seed, shelled peanuts, caraway seed, prunes, and stuffed dates. (F. D. C. No. 38684. S. Nos. 18-835/8 M, 18-840/1 M, 18-845 M.)

QUANTITY: 1 65-lb. drum of ground cumin, 1 40-lb. drum of shredded coconut, 50 lbs. of celery seed in an unlabeled bin and 1 30-lb. drum of celery seed, 1 50-lb. bag of shelled peanuts, 1 64-lb. bag of caraway seed, 63 30-lb. boxes of prunes, and 18 8-oz. pkgs. of stuffed dates at Mansfield, Ohio.

SHIPPED: Between 1935 and 1954, from various points outside the State of Ohio.

LIBELED: 11-18-55, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects, moldy peanuts, and decomposed prunes while held for sale.

The libel alleged that another article, namely, an antiseptic solution, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4942.

DISPOSITION: 12-15-55. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

23295. Vitamelk. (F. D. C. No. 37828. S. No. 76-122 L.)

INFORMATION FILED: 6-8-55, W. Dist. Wash., against Dawe's Mfg. Co., a corporation, Auburn, Wash.

SHIPPED: 3-4-54, from Washington to Oregon.

LABEL IN PART: (Bag) "Dawe's Vitamelk Multi-Vitamin Fortifier (D. V. Base)."

CHARGE: 403 (a)—the label statement "Minimum Guarantee Per Pound Vitamin D₃ (Int. Chick Units) 27,240" was false and misleading in that the article, when shipped, contained less than 27,240 International Chick Units of vitamin D₃ per pound.

PLEA: Nolo contendere.

DISPOSITION: 5-7-56. \$2,500 fine.

23296. Vitamin preparations. (F. D. C. No. 38885. S. Nos. 23-394/400 M, 23-481/2 M.)

QUANTITY: 144 100-capsule btls. and 34 250-capsule btls. of Quinbex vitamin B complex; 84 250-gelucap btls. of Vitamals; 82 100-tablet btls. of Hydrolyzol; 220 100-gelucap btls. of Bevrans; 46 100-gelucap btls. of Multi-Vitamin VCA; 82 100-capsule btls. of Vi-Nutro Multi-Vitamin Perles; 200 100-capsule btls. of Vi-Nutro Perles; and 22 100-capsule btls. of Quintrons, at Boston, Mass.

SHIPPED: Between 4-1-55 and 10-14-55, from St. Louis, Mo., and Newark, N. J.

RESULTS OF INVESTIGATION: Analysis showed that the Vitamals contained less than the declared amount of vitamin B₁₂ and that the other articles contained less than the declared amounts of vitamin B₁.

LIBELED: 12-29-55, Dist. Mass.

CHARGE: 402 (b) (1)—valuable constituents, vitamin B₁₂ (84-btl. lot) and vitamin B₁ (all other lots), had been in part omitted or abstracted from the articles while held for sale; and 403 (a)—the following label statements: (144-, 34-, and 46-btl. lot) "Each Gelucap Contains: Vitamin B-1 (Thiamin Chloride) 2 mg."; (84-btl. lot) "Each Vitamals Gelucap Contains: * * * Vitamin B₁₂ (Oral Grade) 3 mcg."; (82-btl. lot Hydrolyzol) "Thirty-six grams will supply * * * Thiamine (B₁) 14 mg."; (220-btl. lot) "Each Gelucap Contains: Vitamin B₁ (Thiamin Chloride) 6 mg."; (82-btl. lot Vi-Nutro Multi-Vitamin Perles and 22-btl. lot Quintrons) "Each Capsule Contains: Vitamin B-1 (Thiamin Chloride) 1 mg."; and (200-btl. lot Vi-Nutro Perles) "Each Capsule Contains: * * * Vitamin B₁ . . . 333 U. S. P. Units" were false and misleading.

DISPOSITION: 4-9-56. Default—delivered to a charitable institution, accompanied by a notice of vitamin deficiency.

23297. Vitamin tablets. (F. D. C. No. 39232. S. No. 43-221 M.)

QUANTITY: 80 125-tablet btls. at Memphis, Tenn.

SHIPPED: Approximately 4 or 5 years prior to the filing of the libel, from New York, N. Y.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than the declared amounts of vitamin B₁, vitamin B₂, and niacinamide.

LIBELED: 5-14-56, W. Dist. Tenn.

CHARGE: 402 (b) (1)—valuable constituents, vitamin B₁, vitamin B₂, and niacinamide, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "The suggested intake of 9 Tablets daily supplies: * * * Vitamin B₁ (Thiamine Hydrochloride) 333 U. S. P. Units * * * Vitamin B₂ (Riboflavin) 2 Milligrams * * * Niacinamide 10 Milligrams" was false and misleading.

DISPOSITION: 6-15-56. Default—destruction.

23298. Crunchies. (F. D. C. No. 38499. S. Nos. 11-638/9 M.)

QUANTITY: 4 drums, each containing 25,000 Crunchies, and 3 drums, each containing 20,000 Crunchies, at Birmingham, Ala.

SHIPPED: 4-9-54, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Analysis showed that the article contained about 50 percent of the declared amount of vitamin D.

LIBELED: 10-12-55, N. Dist. Ala.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4950.

DISPOSITION: 11-15-55. Default—destruction.

23299. Rybutol gelucaps, Good Diet vitamin capsules, and Good Diet vitamin mineral capsules. (F. D. C. No. 38230. S. Nos. 2-660 M, 19-981/2 M, 19-985 M, 19-988 M.)

QUANTITY: 54 100-gelucap btls., 14 50-gelucap btls., and 36 25-gelucap btls. of Rybutol gelucaps; 55 100-capsule btls. of Good Diet vitamin B complex with liver, folic acid, inositol, choline, and vitamin B₁₂ capsules; and 52 100-capsule pkgs. and 6 200-capsule pkgs. of Good Diet vitamin mineral capsules, in interstate commerce, at Washington, D. C.

RESULTS OF INVESTIGATION: Analysis showed that all lots contained less than the declared amounts of vitamin B₁.

LIBELED: 7-8-55, Dist. Columbia.

CHARGE: All lots. 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the articles while in interstate commerce.

54-, 14-, and 36-btl. lots. 403 (a)—the label statement "Each Gelucap Contains: Vitamin B₁ (Thiamin Chloride) . . . 15 mg." was false and misleading.

55-btl. lot. 403 (a)—the label statement "Each capsule contains: Vitamin B₁ (Thiamin Chloride) . . . 3 mg." was false and misleading.

52- and 6-pkg. lots. 403 (a)—the label statement "Each Orange Capsule Contains: Vitamin B₁ (Thiamin Chloride) 1000 U. S. P. Units (3 mg.)" was false and misleading.

The libel alleged also that one other article, namely, Super Potency liver, iron, B complex with folic acid capsules, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4901.

DISPOSITION: 8-10-55. Default—destruction.

23300. Dicalcium phosphate with vitamin D tablets. (F. D. C. No. 38920. S. No. 32-157 M.)

QUANTITY: 8 30,000-tablet drums at Philadelphia, Pa.

SHIPPED: 10-19-55, from Cleveland, Ohio.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of vitamin D.

LIBELED: 1-19-56, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Content per tablet: * * * Vitamin D: 333 USP units" was false and misleading.

DISPOSITION: 2-15-56. Default—destruction.

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SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

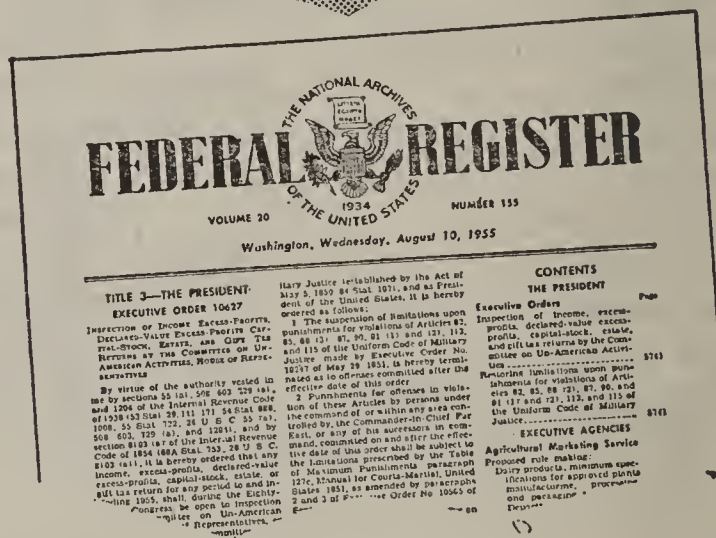
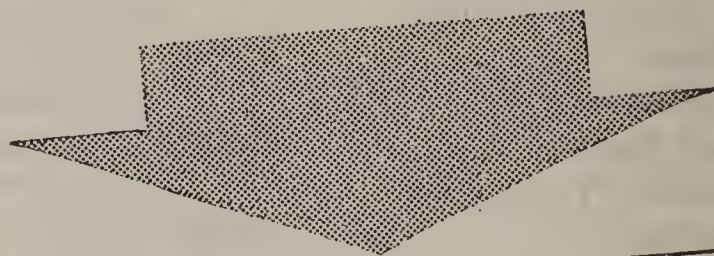
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U. S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act] 1957

23301-23350

FOODS

U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which default or consent decrees of condemnation were entered and (2) criminal proceedings which were terminated upon pleas of guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *September 25, 1957.*

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*SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23301-23350*

Adulteration, Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in another case, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (b), the article was offered for sale under the name of another food; Section 403 (e) (1), the article was in package form, and it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23301. Cakes. (F. D. C. No. 38541. S. Nos. 13-401/7 M, 29-848/51 M.)

INFORMATION FILED: 11-29-55, E. Dist. Pa., against John E. Mayer, Philadelphia, Pa.

SHIPPED: Between 8-3-55 and 8-10-55, from Pennsylvania to Maryland and New York.

LABEL IN PART: (Pkg.) "Layer Cake Net Wt. 16 Oz. 53¢ Zaffere's Bakery Federalsburg, Md. Distributors," and "Tea Ring [or "Short Cake Layer," "Loaf Pound," or "Half Ring Pound"] * * * John E. Mayer Philadelphia, Penna."

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-30-56. \$1,000 fine; jail sentence for 1 year suspended and defendant placed on probation for 3 years.

FLOUR

23302. Flour. (F. D. C. No. 39113. S. Nos. 40-384/5 M.)

QUANTITY: 89 25-lb. bags and 20 50-lb. bags at Beloit, Wis., in possession of Link Wholesale Grocery Co.

SHIPPED: Between 12-15-55 and 1-4-56, from Minneapolis, Minn.

LIBELED: 4-19-56, W. Dist. Wis.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-12-56. Default—consumption by animals.

23303. Flour. (F. D. C. No. 39129. S. No. 40-984 M.)

QUANTITY: 30 50-lb. bags at Detroit Lakes, Minn., in possession of Hawkins Sales Co.

SHIPPED: Late 1955 or early 1956, from Valley City, N. Dak.

LIBELED: 5-22-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-22-56. Default—consumption by animals.

MACARONI AND NOODLE PRODUCTS

23304. Egg noodles and a macaroni product. (F. D. C. No. 39124. S. Nos. 49-225/6 M.)

QUANTITY: 6 cases, 12 1-lb. pkgs. each, of egg noodles, and 2 cases, 12 1-lb. pkgs. each, of a macaroni product, at Gary, Ind.

SHIPPED: 4-3-56, from Steger, Ill., by G. D'Amico Macaroni Co.

LABEL IN PART: (Pkg.) "Kluski Golden Crest Brand Pure Egg Noodles" and "Mamma Mia Brand Rosetti."

LIBELED: 5-7-56, N. Dist. Ind.

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-9-56. Default—destruction.

MISCELLANEOUS CEREALS

23305. Unpopped popcorn. (F. D. C. No. 39118. S. No. 33-999 M.)

QUANTITY: 1,059 100-lb. bags at Atchison, Kans.

SHIPPED: 11-21-55, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Examination showed that the article contained rodents, rodent excreta, and bird excreta.

LIBELED: 4-30-56, Dist. Kans.

CHARGE: 402 (a) (3)—contained filthy substance while held for sale.

DISPOSITION: 5-23-56. Consent—claimed by Ed F. Mangelsdorf & Bros., Inc., St. Louis, Mo. Segregated, 6,418 lbs. destroyed.

23306. Rice (2 seizure actions). (F. D. C. No. 38318. S. Nos. 5-925/6 M.)

QUANTITY: 58 100-lb. bags at Cleveland, Ohio.

SHIPPED: 10-9-54 and 10-29-54, from Jonesboro and De Witt, Ark.

LIBELED: 9-15-55, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-21-56. Consent—destruction.

23307. Wheat. (F. D. C. No. 39180. S. No. 41-101 M.)

QUANTITY: 122,400 lbs. at Minneapolis, Minn.

SHIPPED: 7-12-56, from Harvey, N. Dak., by Harvey Farmers Union Elevator Co.

LIBELED: 8-1-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 8-13-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated, 12,680 lbs. to be disposed of for use as animal feed.

23308. Wheat. (F. D. C. No. 39160. S. No. 40-946 M.)

QUANTITY: 108,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-18-56, from Mott, N. Dak., by Occident Elevator.

LIBELED: 7-12-56, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-3-56. Consent—claimed by Occident Elevator. Segregated, 12,410 lbs. destroyed.

23309. Wheat. (F. D. C. No. 39158. S. No. 40-463 M.)

QUANTITY: 105,650 lbs. at Minneapolis, Minn.

SHIPPED: 6-20-56, from Northwood, N. Dak., by Northwood Grain Feed & Hatchery Mill.

LIBELED: 7-10-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent and bird excreta when shipped.

DISPOSITION: 7-19-56. Consent—claimed by F. C. Riebe Grain Co., t/a Northwood Grain Feed & Hatchery, Northwood, N. Dak. Converted to animal feed.

23310. Wheat. (F. D. C. No. 39164. S. No. 40-851 M.)

QUANTITY: 80,740 lbs. at Minneapolis, Minn.

SHIPPED: 6-22-56, from Kempton, N. Dak., by K & N Elevator.

LIBELED: 7-14-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 7-19-56. Consent—claimed by F. C. Riebe Grain Co., t/a K & N Elevator, Kempton, N. Dak. Converted to animal feed.

CONFECTIONERY*

23311. Candy. (F. D. C. No. 38599. S. Nos. 3-477/8 M, 23-622 M, 23-625 M.)

INFORMATION FILED: 7-23-56, Dist. Vt., against Vermont Confectionery Co., Inc., Burlington, Vt., and Theodore R. Davidson, president.

*See also No. 23350.

SHIPPED: Between 11-12-55 and 12-13-55, from Vermont to Massachusetts and Connecticut.

LABEL IN PART: (Box) "Vermont Blue Ribbon Maple Products * * * Vermont Maple Tree Sugar Co., Burlington, Vt. Net Wt. 8 Oz. [or "Net Weight 1 Pound"]" or "Vermont Blue Ribbon Maple Flavored Peanut Brittle Vermont Maple Co. Sugar Co. Burlington, Vt. Net Weight 14 Oz."

CHARGE: 402 (a) (3)—contained mold, insect parts, insects, and rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-23-56. Court fined corporation \$2,000 and individual \$500; individual sentenced to 6 months in prison, which was suspended, and placed on probation for 3 years.

23312. Candy. (F. D. C. No. 38632. S. Nos. 19-479 M, 27-206 M.)

INFORMATION FILED: 7-2-56, Dist. N. J., against Federal Sweets & Biscuit Co., Inc., Clifton, N. J.

SHIPPED: 1-20-56 and 1-23-56, from New Jersey to Alabama and Kentucky.

LABEL IN PART: (Pkg.) "Dutch Maid Royal Flush Milk Chocolate."

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-5-56. \$750 fine.

DAIRY PRODUCTS

BUTTER

23313. Butter. (F. D. C. No. 38598. S. Nos. 23-000 M, 23-148/9 M, 32-463 M, 32-469 M.)

INFORMATION FILED: 5-17-56, Dist. S. Dak. against Armour & Co., a corporation, trading as Armour Creameries, Mitchell, S. Dak., and Donald F. Iltis, plant manager.

SHIPPED: Between 9-22-55 and 10-22-55, from South Dakota to Maine and Pennsylvania.

LABEL IN PART: (Wrapper) "Armour Star Cloverbloom Butter" and "Armour Cloverbloom Butter."

CHARGE: 402 (a) (3)—contained insects, insect fragments, rodent hair fragments, and manure fragments, and prepared from filthy cream.

PLEA: Guilty.

DISPOSITION: 12-4-56. Corporation fined \$1,000 and individual \$200.

23314. Butter. (F. D. C. No. 39220. S. Nos. 19-612/13 M.)

QUANTITY: 3 cases, 30 1-lb. prints each, 1 case containing 13 1-lb. prints, and 3 30-lb. bulk cases, at Cincinnati, Ohio.

SHIPPED: 7-25-56, from Napoleon, Ind., by Napoleon Creamery.

LABEL IN PART: (Print) "Napoleon Creamery Butter."

LIBELED: 7-30-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insect fragments; 402 (a) (4)—prepared under insanitary conditions; and 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-22-56. Default—converted into grease for nonfood use.

23315. Butter. (F. D. C. No. 39225. S. No. 55-134 M.)

QUANTITY: 4 cases, 30 1-lb cartons each, and 5 1-lb cartons, at Bethel, Ohio.

SHIPPED: 7-25-56, from Napoleon, Ind., by Napoleon Creamery.

LABEL IN PART: (Carton) "Amelia Dairy Butter Amelia Dairy Co. Bethel, Ohio Distributors."

LIBELED: 7-30-56, S. Dist. Ohio.

CHARGE: 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-22-56. Default—converted into fat or oil for nonfood use.

MISCELLANEOUS DAIRY PRODUCT

23316. Nonfat dry milk. (F. D. C. No. 38614. S. Nos. 10-733/4 M, 14-378 M, 25-918 M.)

INFORMATION FILED: 6-19-56, W. Dist. Mo., against De-Raef Corp., Kansas City, Mo.

SHIPPED: Between 1-25-55 and 12-13-55, from Missouri to Illinois and Iowa.

LABEL IN PART: (Drum) "Spray Non Fat Dry Milk Solids * * * Spray Solids—Standard Grade 225# Net Manufactured and Packed Exclusively By De-Raef Corporation" or "De-Raef Non Fat Milk Solids Manufactured And Packed Exclusively For Say-Lac Sales Company, Inc. Kansas City 5, Missouri By De-Raef Corporation, Manufacturers Of Fortified Cultured Soft Curd Milk Products Kansas City 8, Missouri."

CHARGE: 402 (b) (2)—when shipped, a food containing a mixture of calcium carbonate, soybean flour, and nonfat dry milk solids had been substituted in whole or in part for nonfat dry milk solids; 403 (a)—the label statements "Non Fat Dry Milk Solids" and "Non Fat Milk Solids" were false and misleading; and 403 (b)—the article was offered for sale under the name of another food.

PLEA: Guilty.

DISPOSITION: 10-12-56. \$2,000 fine, plus costs.

EGGS

23317. Frozen eggs. (F. D. C. No. 38595. S. Nos. 29-876 M, 29-879 M.)

INFORMATION FILED: 6-15-56, W. Dist. Mo., against Samuel Jacob Pollman, t/a Sam Pollman Egg Co., Kansas City, Mo.

SHIPPED: 8-26-55 and 9-2-55, from Missouri to New York.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 6-15-56. Fine of \$2,000 reduced to \$1,000.

23318. Frozen eggs. (F. D. C. No. 38615. S. No. 19-862 M.)

INFORMATION FILED: 7-18-56, E. Dist. Tenn., against Pierce Produce, Inc., Greeneville, Tenn., and Sumner B. Pierce, president.

SHIPPED: 10-18-55, from Tennessee to Virginia.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 9-17-56. \$250 fine.

FISH AND SHELLFISH

23319. Canned fish flakes. (F. D. C. No. 39154. S. No. 27-488 M.)

QUANTITY: 118 cases, 24 14-oz. cans each, at New Orleans, La.

SHIPPED: 4-9-56, from New York, N. Y., by J. W. Windsor Co.

LABEL IN PART: (Can) "Beaver Brand Cod, Hake and Haddock Fish Flakes
* * * Distributors The J. W. Windsor Co. Ltd., Montreal, Canada."

LIBELED: 7-2-56, E. Dist. La.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 8-14-56. Default—destruction.

23320. Frozen salmon. (F. D. C. No. 39065. S. No. 47-686 M.)

QUANTITY: 1,593 lbs. in 49 boxes and cartons at Brooklyn, N. Y.

SHIPPED: 7-26-55, from North Sydney, Nova Scotia, by National Sea Products, Ltd. (Leonard Brothers Div.).

LIBELED: 5-10-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 6-13-56. Default—destruction.

23321. Crabmeat. (F. D. C. No. 39214. S. No. 20-361 M.)

QUANTITY: 3 barrels, 375 cans each, at Baltimore, Md.

SHIPPED: 6-19-56, from Onancock, Va., by Eastern Shore Seafood Co.

LABEL IN PART: (Can) "Fresh Claw" [or] "Regular Crabmeat Pride of the
Shore Crabmeat Eastern Shore Seafood Co. Contents One Pound—VA
51C."

LIBELED: On or about 6-21-56, Dist. Md.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 7-13-56. Default—destruction.

23322. Crabmeat. (F. D. C. No. 39215. S. Nos. 44-868/70 M.)

QUANTITY: 2 barrels, 184 cans each, at Galesville, Md.

SHIPPED: 6-14-56, from Morattico, Va., by Lancaster Seafoods, Inc.

LABEL IN PART: (Can) "1 Lb. Net Regular [or "Claw" or "Backfin"] Crab-
meat."

LIBELED: On or about 6-19-56, Dist. Md.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 7-13-56. Default—destruction.

23323. Crabmeat. (F. D. C. No. 39174. S. Nos. 39-152 M, 39-542 M.)

QUANTITY: 413 lbs. at Mobile, Ala.

SHIPPED: 7-17-56, from Apalachicola, Fla., by Harold L. Allen.

LABEL IN PART: (Can) "Millender & Sons, Fla. 18 C Claw [or "Special" or
"Backfin"] Crabmeat 1 Lb. Net. East Point, Fla." or "Houston Miller Sea-
foods, Fla. 64 C Crab Meat 1 Lb. Net. East Point, Fla. Claw [or "Backfin"
or "Special"]."

LIBELED: 7-26-56, S. Dist. Ala.

CHARGE: 402 (a) (3)—contained fecal material; and 402 (a) (4)—packed
under insanitary conditions.

DISPOSITION: 8-27-56. Default—destruction.

23324. Canned oysters. (F. D. C. No. 39146. S. No. 27-332 M.)

QUANTITY: 1,446 cases, 24 211- by 300-size cans each, at Biloxi, Miss.

SHIPPED: 3-17-56, from Houma, La., by Buquet Canning Co.

LIBELED: 6-13-56, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained decomposed oysters when shipped.

DISPOSITION: 9-25-56. Consent—claimed by Buquet Canning Co. Segregated, 18 $\frac{1}{12}$ cases destroyed.

23325. Canned oysters. (F. D. C. No. 39142. S. No. 27-602 M.)

QUANTITY: 486 cases, 24 211- by 300-size cans each, at Biloxi, Miss.

SHIPPED: 3-15-56, from Braithwaite, La., by Plaquemines Parish Canning Co.

LIBELED: 6-8-56, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained decomposed oysters when shipped.

DISPOSITION: 9-25-56. Consent—claimed by Plaquemines Parish Canning Co. Segregated, 48 $\frac{1}{24}$ cases destroyed.

23326. Breaded shrimp, peeled and deveined shrimp, and shrimp in the shell.

(F. D. C. No. 37887. S. Nos. 5-596 M, 5-764 M, 5-767/8 M, 6-915/7 M, 6-932 M.)

INFORMATION FILED: 9-11-56, S. Dist. Fla., against Florida Frozen Food Processors, Inc., Miami, Fla.

SHIPPED: Between 7-30-54 and 11-27-54, from Florida to Colorado, Ohio, and Wisconsin.

LABEL IN PART: (Carton) "Thomas Breaded Fantail Shrimp [or "Thomas Frozen Fresh Shrimp Ready to Cook" or "Thomas Frozen Fresh Shrimp In the Shell"] Net Wt. 10 Oz. Packed For Thomas Foods, Inc., Cincinnati, Ohio," "Thomas Fresh Frozen Breaded Fantail Jumbo Shrimp Net Wt. 4 Lbs. Packed For Geo. H. Thomas, Inc., Cincinnati, Ohio," "Tropic-Fair Breaded Shrimp Tidbits Net Weight 2 Lbs. Quick Frozen," and "Tropic-Fair Jumbo Shrimp Quick Frozen 1 Lb. Net. Wt. [or "Tropic-Fair Whole, Peeled Deveined and Breaded Jumbo Shrimp Net Wt. 4 Pounds"] Packed by Florida Frozen Food Processors."

CHARGE: 402 (a) (2)—when shipped, the article contained an added poisonous and deleterious substance, quaternary ammonium compound, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

PLEA: Guilty.

DISPOSITION: 11-2-56. \$1,000 fine.

23327. Frozen shrimp. (F. D. C. No. 39119. S. Nos. 24-447/54 M.)

QUANTITY: 498 cases, a portion containing 10 5-lb. pkgs. each and a portion containing 8 5-lb. pkgs. each, at Los Angeles, Calif.

SHIPPED: 4-7-56, from Dallas, Tex., by South States Sales Co.

LIBELED: 4-26-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained decomposed shrimp while in interstate commerce.

DISPOSITION: 5-31-56. Consent—claimed by Rubenstein & Sons, Inc., Dallas, Tex., and denatured for use as fish bait.

23328. Frozen breaded shrimp. (F. D. C. Nos. 39092, 39093. S. Nos. 51-622 M, 51-628 M.)

QUANTITY: 111 cases, 24 10-oz. boxes each, at Amarillo, Tex.

SHIPPED: 9-6-55, from Miami, Fla., by South Coast Quick Freezing & Packing Co.

LABEL IN PART: (Box) "Southcoast Frozen Large Fantail Breaded Shrimp Ready To Fry."

LIBELED: 3-24-56, N. Dist. Tex.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 6-29-56. Default—destruction.

FRUITS AND VEGETABLES

FRESH FRUIT

23329. Fresh blueberries. (F. D. C. No. 39228. S. No. 58-910 M.)

QUANTITY: 18 cartons, 12 pts. each, at Philadelphia, Pa.

SHIPPED: 8-8-56, from Tuckerton, N. J., by Chad Carr.

LIBELED: 8-8-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained maggots and was decomposed when shipped.

DISPOSITION: 9-5-56. Default—destruction.

FROZEN FRUIT

23330. Frozen strawberries. (F. D. C. No. 38082. S. Nos. 16-065 M, 20-002 M.)

QUANTITY: 1,600 25-lb. cans at Front Royal, Va.

SHIPPED: 6-1-55, from Bellingham, Wash., by Canada Packers, Ltd.

LIBELED: On or about 7-11-55, W. Dist. Va.

CHARGE: 402 (a) (3)—contained decomposed strawberries when shipped.

DISPOSITION: 1-18-56. Consent—claimed by Canada Packers, Ltd., and released for segregation. Since the segregation operations were unsuccessful, the article was destroyed.

VEGETABLES AND VEGETABLE PRODUCTS

23331. Pinto beans. (F. D. C. No. 39132. S. No. 15-637 M.)

QUANTITY: 10 100-lb. sacks at Tracy, Calif.

SHIPPED: 11-4-55, from Filer, Idaho.

LIBELED: 5-28-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-12-56. Default—destruction.

23332. Mung beans. (F. D. C. No. 39130. S. No. 40-737 M.)

QUANTITY: 400 100-lb. bags at Duluth, Minn.

SHIPPED: Prior to 3-22-54, from New York, N. Y.

LIBELED: 5-22-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine while held for sale.

DISPOSITION: 6-25-56. Consent—claimed by Chun King Sales, Inc., Duluth, Minn. Converted to animal feed.

23333. Canned corn. (F. D. C. No. 38045. S. No. 19-069 M.)

QUANTITY: 178 cases, 24 1-lb. cans each, at Bedford, Ind.

SHIPPED: 3-29-55, from Milford, Ill., by Milford Canning Co.

LABEL IN PART: (Can) "Foodcraft Brand Cream Style Golden Sweet Corn."

LIBELED: 5-18-55, S. Dist. Ind.

CHARGE: 402 (a) (3)—contained worms and worm fragments when shipped.

DISPOSITION: 12-23-55. Default—destruction.

23334. Canned peas and canned beets. (F. D. C. No. 39181. S. Nos. 34-028 M, 34-030 M.)

QUANTITY: 184 cases, 48 11-oz. cans each, and 90 cases, 24 No. 303 cans each, at Coffeyville, Kans.

SHIPPED: 3-24-52 and 7-2-53, from Seymour, Wis., and Milton, Oreg.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 8-7-56, Dist. Kans.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 10-1-56. Default—destruction.

23335. Pickles. (F. D. C. No. 38956. S. Nos. 24-934/6 M.)

QUANTITY: 518 cases, 24 1-pt. btls. each, 626 cases, 12 1-qt. btls. each, and 177 cases, 24 8-oz. btls. each, at Seattle, Wash.

SHIPPED: 12-15-55, from Redgranite, Wis., by Chicago Pickle Co.

LABEL IN PART: (Btl.) "Napoleon * * * Kosher Style Midget Dills."

LIBELED: 2-17-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained an excessive amount of sand and grit when shipped.

DISPOSITION: 3-6-57. Default—destruction.

23336. Canned pumpkin. (F. D. C. No. 38829. S. Nos. 19-765 M, 30-687 M.)

QUANTITY: 107 cases, 24 cans each, 35 cases, 36 cans each, and 1 case containing 21 cans, at Brownstown, Ind.

SHIPPED: 12-19-55, from Louisville, Ky., by Morgan Packing Co., Inc.

LABEL IN PART: (Can) "A & P Vine-ripened Pumpkin * * * Net Wt. 1 lb. 13 oz."

LIBELED: On or about 3-1-56, S. Dist. Ind.

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-28-56. Default—destruction.

TOMATO PRODUCTS

23337. Tomato catsup. (F. D. C. No. 38831. S. No. 36-350 M.)

QUANTITY: 858 cases, 24 btls. each, at Carson City, Mich.

SHIPPED: 11-7-55, from Fowlerton, Ind., by Midwest Food Packers, Inc.

LABEL IN PART: (Btl.) "Deerwood Net Weight 14 oz. AVD. Fancy Tomato Catsup."

LIBELED: 1-26-56, W. Dist. Mich.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 11-13-56. Consent—destruction.

23338. Tomato catsup. (F. D. C. No. 38821. S. No. 26-506 M.)

QUANTITY: 155 cases, 6 No. 10 cans each, at Madison, Wis.

SHIPPED: 9-30-55, from Elwood, Ind., by Frazier-Schafer Farms.

LABEL IN PART: (Can) "Net Weight 14 oz. AVD. Eat-Well Brand Tomato Catsup."

LIBELED: 1-16-56, W. Dist. Wis.

CHARGE: 402 (a) (3)—contained fly eggs and maggots; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 6-10-57. Default—destruction.

23339. Tomato juice. (F. D. C. No. 39254. S. No. 49-762 M.)

QUANTITY: 997 cases, 12 1-qt., 14-oz. cans each, at Cambridge, Mass.

SHIPPED: 3-2-56, from Farnham, N. Y., by Great Lakes Packing Co.

LABEL IN PART: (Can) "Ken-More Brand Tomato juice."

LIBELED: 5-24-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 7-9-56. Default—destruction.

23340. Tomato paste. (F. D. C. No. 37370. S. No. 77-128 L.)

QUANTITY: 398 cases, 96 6-oz. cans each, at Philadelphia, Pa.

SHIPPED: 10-31-51, from Fullerton, Calif.

LIBELED: 11-24-54, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 10-22-56. Consent—destruction.

NUTS

23341. Shelled almonds. (F. D. C. No. 38279. S. Nos. 25-761 M, 26-033 M.)

QUANTITY: 10 28-lb. boxes and 6 100-lb. bags at St. Paul, Minn., in possession of Central Warehouse Co.

SHIPPED: 12-8-53 and 4-12-55, from New York, N. Y., and Chicago, Ill.

LIBELED: 8-16-55, Dist. Minn.

CHARGE: 402 (a) (3)—(both lots) contained rodent-gnawed and insect-damaged almonds while held for sale; and 402 (a) (4)—(6-bag lot) held under insanitary conditions.

DISPOSITION: 9-29-55. Default (10-box lot)—denatured for use as animal feed; consent (6-bag lot)—claimed by Maud Borup, Inc., St. Paul, Minn., and segregated, resulting in the destruction of 209 pounds.

23342. Shelled pecans. (F. D. C. No. 38945. S. No. 35-740 M.)

QUANTITY: 51 30-lb. cartons at Chicago, Ill.

SHIPPED: 12-9-55, from West Memphis, Ark., by Delta Pecan Co.

LABEL IN PART: (Carton) "Pecans * * * Large Pecan Pieces."

LIBELED: 2-14-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained *E. coli*; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-5-56. Consent—claimed by Delta Pecan Co. The article was satisfactorily reconditioned by washing it in a chlorine solution, drying in hot air dryers, and repacking into new cartons.

23343. Unshelled walnuts. (F. D. C. No. 39126. S. No. 20-814 M.)

QUANTITY: 133 100-lb. bags at Grand Island, Nebr., in possession of Brown Fruit Co.

SHIPPED: 12-7-55, from Los Angeles, Calif.

LIBELED: 5-8-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-8-56. Consent—claimed by Brown Fruit Co. Segregated, approximately 2,822 lbs. destroyed.

POULTRY

23344. Dressed poultry. (F. D. C. No. 38636. S. Nos. 23-202 M, 37-264 M.)

INFORMATION FILED: 6-21-56, Dist. N. H., against Arcidy Poultry Co., Inc., Londonderry, N. H.

SHIPPED: 12-14-55 and 2-7-56, from New Hampshire to New York and Massachusetts.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter; and 402 (a) (5)—contained diseased poultry.

PLEA: Guilty.

DISPOSITION: 9-13-56. \$800 fine.

23345. Dressed turkeys. (F. D. C. No. 38616. S. No. 37-266 M.)

INFORMATION FILED: 7-18-56, E. Dist. Tenn., against Burnett Product Co., a partnership, Morristown, Tenn.

SHIPPED: 12-19-55, from Tennessee to New York.

CHARGE: 402 (a) (3)—contained, when shipped, decomposed turkeys and turkeys contaminated with fecal matter; and 402 (a) (5)—contained diseased turkeys.

PLEA: Guilty.

DISPOSITION: 9-17-56. \$600 fine.

23346. Dressed turkeys. (F. D. C. No. 38600. S. No. 19-780 M.)

INFORMATION FILED: 11-8-56, S. Dist. Ind., against Carl Hendricks, t/a Carl Hendricks Poultry Co., New Salisbury, Ind.

SHIPPED: 12-9-55, from Indiana to Kentucky.

CHARGE: 402 (a) (3)—contained fecal matter and crop material; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty

DISPOSITION: 12-27-56. \$250 fine, plus costs.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

23347. Vitamin capsules. (F. D. C. No. 38907. S. Nos. 37-043/4 M, 37-047 M, 37-050/1 M, 37-054/5 M, 37-064 M, 37-066 M, 37-089/91 M.)

QUANTITY: 11 100-capsule pkgs. of Lederplex, 18 100-capsule boxes of vitamin B complex, 5 100-capsule btls. of Provite B, 1 400-capsule btl. of Provite B with vitamin B, 8 100-capsule btls. of Ol-Vitum, 6 100-capsule btls. of Bepadin, 4 100-capsule btls. of Bepadin with vitamin C, 1 1,200-capsule btl. of Minules, 1 900-capsule btl. of Heptuna, 75 pkgs. of Viterra multivitamins capsules, 650 boxes of Viterra therapeutic capsules, and 2 btls. containing a total of 2,000 Obron capsules, at Newark, N. J.

SHIPPED: On unknown dates, from Chicago, Ill., Cleveland, Ohio, Philadelphia, Pa., and New York and Pearl River, N. Y.

LIBELED: 1-13-56, Dist. N. J.

CHARGE: 402 (b) (1)—(vitamin B complex capsules, Provite B capsules, Provite B with vitamin B capsules, Ol-Vitum capsules, Bepadin capsules, Bepadin with vitamin C capsules, Viterra therapeutic capsules, and Obron capsules) a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the articles; and (Minules capsules and Viterra multivitamins capsules) valuable constituents, vitamins B₁ and C, had been in part omitted or abstracted from the articles.

403 (a)—(vitamin B complex capsules) the label statement "Each Capsule contains: Vitamin B₁ (Thiamine Chloride) 1.5 mg." was false and misleading as applied to a product which contained less than the stated amount of vitamin B₁ per capsule; (Provite B capsules) the label statement "Each Capsule Contains: Vitamin B₁ (Thiamine HCl) 25 mg." was false and misleading as applied to a product which contained less than the declared amount of vitamin B₁ per capsule; (Provite B with vitamin B capsules) the label statement "Each Capsule Contains: Vitamin B₁ (Thiamine Hydrochloride) 25 mg." was false and misleading as applied to a product which contained 18 milligrams of vitamin B₁ per capsule; (Ol-Vitum capsules) the label statement "Each capsule contains: * * * Vitamin B₁ 2.5 mgs." was false and misleading as applied to a product which contained not more than 1.75 milligrams of vitamin B₁ per capsule; (Bepadin capsules) the label statement "Each Capsule Contains: 500 U. S. P. Units Vitamin B₁" was false and misleading as applied to a product which contained not more than 250 U. S. P. units of vitamin B₁ per capsule; (Bepadin with vitamin C capsules) the label statement "Each Capsule contains * * * Vitamins * * * B₁ 2 mg. Thiamine HCl" was false and misleading as applied to a product which contained 1.5 milligrams of vitamin B₁ per capsule; (Minules capsules) the label statement "Each capsule contains: Vitamin B₁ (thiamine hydrochloride) . . . 2 mg. * * * Vitamin C (ascorbic acid) . . . 20 mg." was false and misleading as applied to a product which contained not more than 1.4 milligrams of vitamin B₁ and not more than 10 milligrams of vitamin C per capsule; (Viterra Multivitamins capsules) the label statement "Each Capsule Contains * * * Thiamine Hydrochloride U. S. P. . . . 3 mg. * * * Ascorbic Acid U. S. P. . . . 50 mg." was false and misleading as applied to a product which contained 2.1 milligrams of vitamin B₁ and 40 milligrams of vitamin C per capsule; (Viterra therapeutic capsules) the label statement "Each Capsule Contains * * * Vitamin B₁ (Thiamine Mononitrate) U. S. P. 10 mg." was false and misleading as applied to a product which contained not more than 8.0 milligrams of vitamin B₁ per capsule; and (Obron capsules) the label statement "Each Capsule Contains: * * * Thiamine Hydrochloride . . . U. S. P. 2 mg." was false and misleading as applied to a product which contained 1.3 milligrams of vitamin B₁ (thiamine hydrochloride) per capsule.

403 (e) (1)—(Lederplex capsules and Heptuna capsules) the labels failed to bear the names and places of business of the manufacturers, packers, or distributors.

403 (j)—(Lederplex capsules and Heptuna capsules) the labels of the articles failed to bear, as required by regulations, information concerning their vitamin and other dietary properties.

All lots were misbranded and/or adulterated while held for sale.

The libel alleged also that 27 other products were adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4986.

DISPOSITION: 2-14-56. Default—destruction.

23348. Ferro-Calscorbate. (F. D. C. No. 38732. S. No. 9-640 M.)

QUANTITY: 38 100-capsule btls. at Los Angeles, Calif.

SHIPPED: During 1953, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of vitamin D₂.

LIBELED: 12-13-55, S. Dist. Calif.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D₂, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Capsule Contains: * * * Vitamin D₂ (Calciferol) 800 U. S. P. Units" was false and misleading.

The libel alleged also that another product, namely, Befolin No. 1, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 5011.

DISPOSITION: 1-19-56. Consent—destruction.

23349. Papay-O-Melon. (F. D. C. No. 38739. S. Nos. 21-236 M, 21-240 M.)

QUANTITY: 42 cases, 12 1-qt. btls. each, at Oklahoma City, Okla.

SHIPPED: Between 9-22-55 and 11-25-55, from St. Augustine Fla., by Curtis-Sunny Isle Products.

LABEL IN PART: (Btl.) "A Curtis-Sunny Isle Product Homogenized Papay-O-Melon * * * Made From Fresh Ripe Papaya Melons Sugar Added * * * Vitamin Content A, in particular, seems to occur to the extent of 10,000 units to the pound of ripe fruit; B, 7,500 units; C, 7,500 units; G, 10,000 units * * * Non-Fattening * * * blended scientifically * * * to retain all its essential qualifications and luscious flavor."

RESULTS OF INVESTIGATION: Examination showed that the article was a thick orange-red sirupy liquid containing a substantial amount of sugar, artificial flavor, and artificial color. The product did not have the taste of papaya but resembled in taste an imitation strawberry-flavored beverage.

LIBELED: 12-9-55, W. Dist. Okla.

CHARGE: 403 (a)—when the article was shipped, the label statement "Papay-O-Melon * * * Made from Fresh Ripe Papaya Melons Sugar Added * * * Non-Fattening * * * blended scientifically * * * to retain all its essential qualifications and luscious flavor" was false and misleading as applied to a product high in sugar content and containing artificial flavor and artificial color having the taste and odor of an artificial strawberry drink; and 403 (j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content, and its label failed to

bear, as required by regulations, a statement of the proportion of the minimum daily requirements of vitamin A, vitamin B₁, vitamin G (riboflavin), and vitamin C supplied by the article when consumed in a specified quantity during a period of one day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 5030.

DISPOSITION: 1-13-56. Consent—claimed by Curtis-Sunny Isle Products Co. and relabeled.

23350. Candy. (F. D. C. No. 38743. S. Nos. 23-197/200 M, 23-525/8 M.)

QUANTITY: 16 boxes, 24 2-oz. bars each, 7 cartons, 48 ¾-oz. bars each, and 21 cases, 24 4-oz. boxes each, at Boston, Mass.

SHIPPED: Between 9-12-55 and 11-23-55, from Milford, Conn., by Casanova Chocolate Co., Inc.

LABEL IN PART: (Bar) "Dietetic Slimettes * * * Bar * * * No Sugar Added No Salt added * * * For Sugar Restricted Diets Ingredients: Chocolate liquor * * * skim and whole milk, mannitol, cocoa butter, lecithin, vanillin (an artificial flavor), natural flavors"; (box) "Dietetic Slimettes Chocolates * * * No Sugar Added No Salt Added * * * For Sugar Restricted Diets Ingredients: Chocolate liquor * * * skim and whole milk."

ACCOMPANYING LABELING: Pamphlets designated "Is Your Diet Restricted * * * Dietetic Slimettes * * * No Salt Added" and posters entitled "Dietetic Chocolates."

RESULTS OF INVESTIGATION: Analyses showed that the articles contained from 105 to 118 milligrams of sodium per 100 grams.

LIBELED: 12-13-55, Dist. Mass.

CHARGE: 403 (a)—the label statements "Slimettes," "No Sugar Added," and "No Salt Added" were false and misleading as applied to articles high in calories with substantial carbohydrate and sodium contents; and 403 (j)—the articles purported to be and were represented as foods for special dietary uses by reason of their use as a means of regulating the intake of sodium, and their labels failed to bear, as required by regulations, statements of the number of milligrams of sodium in 100 grams of the food and statements of the number of milligrams of sodium in an average serving of the food.

DISPOSITION: 5-23-56. Consent—claimed by Casanova Chocolate Co., Inc. The labeling of the articles was destroyed. The assorted chocolates were destroyed also, with the exception of the solid pieces of chocolate which were melted to the original liquid chocolate state.

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ERRATUM

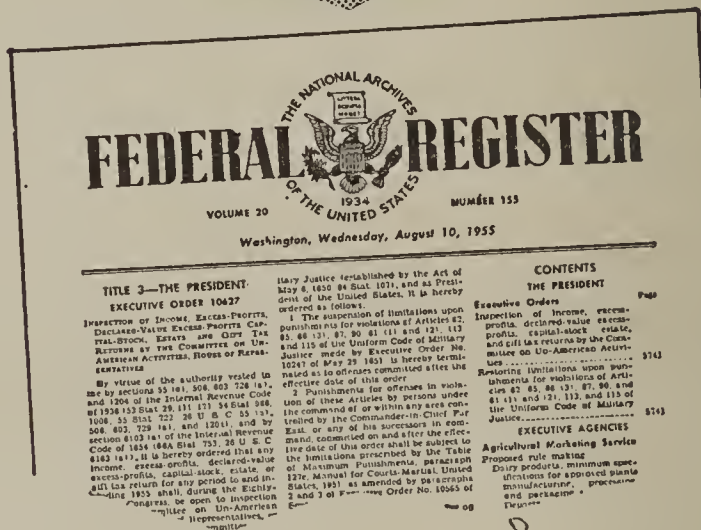
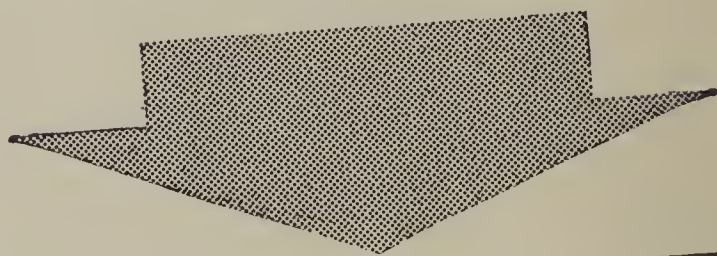
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Issued October 1957

U. S. DEPARTMENT OF AGRICULTURE

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23351-23400

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which default or consent decrees of condemnation were entered and (2) criminal proceedings which were terminated upon pleas of guilty or verdicts of guilty and not guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *October 17, 1957.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN. F. N. J. NOS. 23351-23400

Adulteration, Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23351. Banana macaroons, Anginetti, and egg biscuits. (F. D. C. No. 38133. S. Nos. 3-261 M, 3-349 M, 3-353 M, 3-593 M.)

INDICTMENT FILED: 3-1-56, S. Dist. N. Y., against Stella D'Oro Biscuit Co., Inc., Bronx, N. Y., Joseph Kresevich, president, and Peter Santero, secretary.

SHIPPED: 3-28-55 and 4-1-55, from New York to Connecticut, Massachusetts, and Rhode Island.

LABEL IN PART: (Pkg.) "Banana Macaroons"; (bag) "Anginetti * * * Flour, Sugar, Eggs, Pure Veg. Shortening, Mycoban, Imit. Lemon Flavor" and "Pure Egg Biscuits * * * Flour, Pure Veg. Shortening, Sugar, Leavening, Eggs, Mycoban and Vanilla Flavor."

CHARGE: 402 (a) (3)—contained rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: The defendants filed a notice of a motion for a bill of particulars on 3-22-56 with respect to (1) the number of packages in each count of the indictment alleged to have been adulterated, (2) the nature and extent of

the insanitary conditions under which the articles were prepared, and (3) the manner and extent of the participation of the individual defendants in the alleged matters. After considering the arguments of counsel, the court, on 4-2-56, granted the motion with respect to item 1 but denied the motion as to items 2 and 3.

The case came on for trial before the court and jury on 6-11-56. On 6-14-56, the trial was concluded with the return by the jury of a verdict of guilty against the corporation and a verdict of not guilty against the individual defendants. The corporation made a motion to preclude sentence as a previous offender under 303 (a) of the Act [21 U. S. C. 333 (a)]. On 6-22-56, the court denied the motion with the statement that a written opinion thereon would be filed; on the same day, the court fined the corporation \$3,000 per count, a total fine of \$12,000.

On 7-25-56, the court handed down the following opinion:

LEVET, *District Judge*: "The above-named corporate defendant, Stella D'Oro Biscuit Co., Inc., was held guilty after a jury trial under an indictment for violation of the Federal Food, Drug, and Cosmetic Act, Title 21 USCA Sections 331 (a), 333 (a), 342 (a) (3) and 342 (a) (4). This defendant had been previously convicted for the same offense on February 5, 1951 in the same court, which conviction became final before any of the current violations of said Act were committed by this defendant as alleged in the indictment and in which conviction resulted.

"The procedural background of this case is as follows:

"(1) On February 28, 1956, the Grand Jury voted an indictment of five counts against the corporate defendant, Stella D'Oro Biscuit Co., Inc., for violation of Title 21 USCA Sections 331 (a), 333 (a), 342 (a) (3) and 342 (a) (4). (The first count was subsequently withdrawn.)

"(2) An information alleging the previous conviction of this corporate defendant for violation of Section 331 of Title 21 USCA on February 5, 1951 was filed in this court in March 1956 and notices were sent to the corporation to appear for pleading to the indictment of February 28, 1956 and to plead to the aforesaid information charging a prior conviction for the same offense. Pleas of not guilty were entered.

"(3) On June 14, 1956, the jury returned a verdict of guilty on counts 2, 3, 4 and 5 of this indictment against the corporate defendant, Stella D'Oro Biscuit Co., Inc. At this time a motion was made by the defendant to preclude sentence as a previous offender under Section 333 (a) of Title 21 USCA, which reads as follows:

Any person who violates any of the provisions of section 331 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

"(4) At the time of the making of this motion, the Court denied the defendant's motion to limit the sentence to that of a first offender. After admission by the corporate defendant of the fact of the prior conviction, the time thereof and the identity of the defendant, the defendant was sentenced to a fine of \$3,000 on each of the four counts on which the jury had found it guilty. The Court then indicated its reasons, but stated that an opinion would be filed.

"This motion was made upon the ground that the indictment did not contain the allegation or averment of the previous conviction and that, therefore, the punishment under this section must be no more than a \$1,000 fine. The defendant further contended that it is a fundamental principle of criminal law that in a prosecution under a statute imposing a greater punishment for a second offense than for a first offense, the fact that the offense charged is a second violation must be directly averred in the indictment in order to justify a sentence as a second offender.

"To sustain such a position the defendant has cited the following cases: United States v. Berkowitz, W. D. Mo., 1942, 45 F. Supp. 564; United States ex rel. Manchbach v. Moore, 2 F. 2d 988; Olivito v. United States, 9 Cir., 1933, 67 F. 2d 564; United States v. Modern Reed & Rattan Co., et al., 2 Cir., 1948, 159 F. 2d 656, cert. denied 331 U. S. 831. However, all of the aforesaid cases were decided before the adoption of the Federal Rules of Criminal Procedure. None of them involved cases where the practice followed here had obtained.

"Olivito v. United States, 9 Cir., 1933, 67 F. 2d 565, involved certain statutes under the National Prohibition Act concerning sentences where a defendant had allegedly been engaged in habitual violations. In that case the defendant had been convicted in a City Court for possession of intoxicating liquor. The Court said: 'There was not a scintilla of evidence to prove habitual violation by defendant, since the former acts were too remote and were not prosecuted under the National Prohibition Act.' (p. 565) In the present case at bar, the record shows notice of previous conviction and an admission thereof, all before sentence was imposed.

"United States ex rel. Manchbach v. Moore, 2 F. 2d 988, also involved the National Prohibition Act. Section 29 of said Act provided as follows:

Any person * * * shall be fined for a first offense not more than \$500; for a second offense not less than \$100 nor more than \$1,000, or be imprisoned not more than ninety days; for any subsequent offense he shall be fined not less than \$500 and be imprisoned not less than three months nor more than two years.

In the Manchbach case, *supra*, the defendant had pleaded guilty but no notice had been served by virtue of the indictment or otherwise that there had been previous convictions. In this case, on the other hand, the defendant, Stella D'Oro Biscuit Co., Inc., received timely notice of the previous conviction.

"United States v. Berkowitz, D. C. W. D. Mo., 1942, 45 F. Supp. 564, involved Title 29 USCA § 216 (a) (Fair Labor Standards Act), which reads as follows:

Any person who willfully violates any of the provisions of section 215 of this title shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

The Court then held that under the above-mentioned statute, 'an imprisonment penalty cannot be imposed except in those cases where a second offense has not only been committed, but where the indictment or *information* charges the fact.' [Emphasis added.] Manifestly, the information in the case at bar expressly charged the defendant with having been previously convicted of the offense alleged in the indictment.

"Under the Narcotics Law, 26 USCA 7237, the statute provides in part as follows:

After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

"This procedure in substance was followed by the United States Attorney in this case. The defendant contended that there was no authority to follow such method since the procedure was not directed by statute in the Federal Food, Drug and Cosmetic Act. However, the legislation authorizing that procedure is indicative that the Congress considered that method sufficient for due process.

"United States v. Modern Reed & Rattan Co., Inc., et al., 2 Cir., 1947, 159 F. 2d 656, involved the Fair Labor Standards Act of 1938, Title 29 USCA §§ 201, 207 et seq. Previous convictions and sentences were placed before the jury. This was held error. Judge Chase wrote:

They were charged with specific violations of the statute and were entitled to be tried only for those offenses and upon nothing but competent evidence. *Boyd v. United States* 142 U. S. 450, 12 S. Ct. 292, 35 L. Ed. 1077. The general rule applicable to them is that evidence of the commission of a wholly separate and independent crime even though of the same nature is not admissible. *Kempe v. United States*, 8 Cir., 151 F. 2d 680; *Fabacher v. United States*, 5 Cir., 20 F. 2d 736. Sound policy in the administration of the criminal law underlies this well established principle and little is to be gained by pointing out that its exclusion can hardly be justified on the ground of irrelevancy. Nor should we fail to notice a plain error so far reaching because no objection was taken. *Wiborg v. United States*, 163 U. S. 632, 16 S. Ct. 1127, 41 L. Ed. 289; *United States v. Atkinson*, 297 U. S. 157, 56 S. Ct. 391, 80 L. Ed. 555; *Gomila v. United States*, 5 Cir., 146 F. 2d 372. (p. 658)

"Moreover, in the *Modern Reed & Rattan Co.* case, supra, Judge Chase points out that under the provisions of the National Prohibition Act, Title 27 USCA § 46, the Act contained a specific requirement that former convictions be alleged in the indictment. The provision was: 'It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information or indictment.' See *Singer v. United States*, 3 Cir., 1922, 278 Fed. 415, cert. denied 1922, 258 U. S. 620.

"It is apparent that various methods are now followed in respect to the allegation of previous convictions. See 42 C. J. S. 1057, *Indictments & Informations*, § 145:

"(1) Averment of the prior conviction in the indictment, with the resulting prejudice to the substantive offense currently charged. (42 C. J. S. 1057)

"(2) Under certain statutes the question of prior conviction and identity is submitted to the jury only after conviction of the current offense. (42 C. J. S. 1057)

"(3) Even in the absence of statutory regulation, alleging the prior conviction in the indictment for the current offense, and advising accused thereof but withholding from the jury that portion of the indictment charging the previous conviction until after accused shall have been convicted of this currently charged offense. (42 C. J. S. 1058)

"(4) By a proceeding supplementary to the original or main proceeding brought after conviction and before sentence. This method has been declared fairer to the accused in that it does not prejudice him in the eyes of the jury by showing his previous conviction. See 42 C. J. S. 1067; *State v. Smith*, 273 P. 323, 128 Or. 515; *State v. Domanski*, 115 P. 2d 729, 9 Wash. 2d 519.

"There is nothing in the Federal Rules of Criminal Procedure which requires pleading of a prior conviction in an indictment. Rule 7 ('The Indictment and The Information') contains no requirement of such pleading. Subdivision (c) of Rule 7 reads in part as follows:

The indictment * * * shall be a plain, concise and definite written statement of the essential facts constituting the offense charged.

Rule 2 ('Purpose and Construction') states:

These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

"Concerning the Federal Rules of Criminal Procedure, it has been said:

* * * Adjudication on the merits should be the motivating policy in determining rights rather than technicalities of procedure or form. *United States v. Claus*, D. C. E. D. N. Y., 1946, 5 FRD 278, 280.

The criminal rules were designed to simplify existing procedure and to eliminate outmoded technicalities of centuries gone by. *United States v. Bickford*, 9 Cir., 1948, 168 F. 2d 26, 27.

The Federal Rules of Criminal Procedure 18 U. S. C. A., were designed to eliminate technicalities in criminal pleading and are to be construed to secure simplicity in procedure. *United States v. American Stevedores, Inc.*, D. C. S. D. N. Y., 1954, 16 FRD 164, 167-168.

The adoption of the Federal Rules of Criminal Procedure was authorized on June 25, 1948. See Title 18 USCA §§ 3771, 3772. 'All law in conflict with such rules shall be of no further force or effect after such rules have taken effect.' 18 USCA § 3771.

"It should be noted that the indictment here includes a plain reference to Section 333 (a), which contains the provision reading:

* * * if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

"As stated by Judge Crane in *People v. Gowasky*, 244 N. Y. 451, 455, the earlier decisions of the New York Courts (such as *People v. Sickles*, 156 N. Y. 541) had held that the People must not only allege in the indictment the previous convictions, but must also prove them in the trial in order to convict the defendant as a second offender. But he also went on to say: 'This was due to our *statutory provisions* and the practice which had grown up under them.' [Emphasis added.] Judge Crane also said:

The English practice referred to first found embodiment in the Statute of 5 and 6 William IV, chapter 111, as stated in *Regina v. Shrimpton* (3 Car. & Kir. Rep. 373). Thereafter, previous convictions could not be proved before the jury until after the new charge had first been disposed of. The previous practice of proving old offenses on the trial of the new charge was thought likely to prejudice the prisoner. (See, also, *Regina v. Shuttleworth*, 3 Car. & Kir. Rep. 375.) (p. 456)

It appears in fact that prior to July 1, 1926 (when Section 1943 of the Penal Law went into effect), the practice in New York permitted determination even after sentence as to prior convictions. See *People ex rel. Taylor v. Jennings*, 134 Misc. 586, 589. In *People of United States ex rel. Wisniewski v. Hunt*, D. C. W. D. N. Y., 1941, 36 F. Supp. 774, Judge Knight, in approving the practice set forth in Section 1943, wrote:

* * * As was said in *People ex rel. Taylor v. Jennings*, 134 Misc. 586, 236 N. Y. S. 161, 163: 'It [Section 1943] did not change the method of procedure from that which had previously existed. It did, however, add to the statute another method of procedure. A district attorney now has, as he then had, the right to elect whether to accuse the defendant, charged in an indictment with the commission of a felony, with being a second offender or whether to indict the accused as a first offender, and, if a conviction was secured, then upon his sentence to determine, either by his own admission, or by trial, whether or not he had been previously convicted of a felony in this state. Either method of procedure reached the same conclusion, and the district attorney had the right to make his election as to which course he would pursue.' (p. 774)

"Whatever the practice in the State Courts of New York was prior to 1926, Section 1943 of the Penal Law contained the provisions set forth in the footnote.¹ The Judges of the New York Courts have condemned as unfair

¹ "Procedure relating to resentencing—

"If at any time, either after sentence or conviction, it shall appear that a person convicted of a felony has previously been convicted of crimes as set forth either in section nineteen hundred and forty-one or nineteen hundred and forty-two, it shall be the duty of the district attorney of the county in which such conviction was had to file an information accusing the said person of such previous convictions. Whereupon, the court in which such conviction was had shall cause the said person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegations contained in such information and of his right to be tried as to the truth thereof accord-

and prejudicial the procedure of alleging prior convictions in the indictment. In a dissenting opinion in *People v. DeSantis*, 305 N. Y. 44, Judge Fuld said :

Patently unfair, unquestionably prejudicial, the practice of charging a defendant as a prior felony offender in the indictment and permitting proof thereof at the trial, should be condemned and outlawed. (p. 47)

In *People v. Sickles*, 156 N. Y. 541, Judge Edward T. Bartlett in a dissent wrote :

It is the boast of the common law that every accused person is presumed to be innocent until proven guilty, and we have made this presumption a part of our criminal procedure (Code of Criminal Procedure, § 389).

And in the same case in the Appellate Division, 26 App. Div. 470, Judge Woodward in a dissenting opinion remarked :

But when there is no *issue before the jury to be tried, except the question of the subsequent crime*, it is manifestly improper to introduce evidence as to a specific fact in the history of the prisoner which can have no other effect than to destroy the presumption of innocence to which he is entitled, and which establishes a character and a disposition to crime. (p. 480)

"In *People v. Gowasky*, 244 N. Y. 451, Judge Crane, speaking of the practice under Section 1943 of the New York Penal Law, commented :

* * * Previous convictions need not be alleged in the indictment, nor proved upon the trial of the new charge. This to me seems eminently fair to any prisoner. When he is charged and tried for a crime, his previous record may not be used to influence the jury to convict him of that crime. The proof against him is to be the same as if he were a first offender, unless possibly he takes the stand. But when he is convicted, then comes the question of his sentence, and he is no longer to be treated as a first offender. He may then for the first time be confronted with his record, and sentenced to a severer punishment, as he should be, if it turns out that he has previously transgressed the law. The old practice is still permissible; the indictment, as formerly, may plead the prior convictions, and proof of them may be given at the trial under such pleading, but it is no longer necessary. The indictment may charge only the new offense for which the prisoner is to be tried; on the trial the People will not and cannot offer as part of their case previous convictions. When, however, the trial is over, and the defendant stands convicted, then the previous record must be considered in determining the sentence. (p. 460)

"Under this statute (Section 333 (a)), the first offense is not an element of or included in the second, but is simply a fact in the past history of the criminal which the law takes into consideration when prescribing punishment for the second offense. As stated by Judge Crane in *People v. Gowasky*, *supra* :

ing to law, and shall require such offender to say whether he is the same person as charged in such information or not. If he says he is not the same person or refused to answer, or remains silent, his plea, or the fact of his silence, shall be entered of record and a jury shall be empanelled to inquire whether the offender is the same person mentioned in the several records as set forth in such information. If the jury finds that he is the same person or if he acknowledges or confesses in open court, after being duly cautioned as to his rights, that he is the same person, the court shall sentence him to the punishment prescribed in said sections nineteen hundred and forty-one and nineteen hundred and forty-two, as the case may be, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated. Whenever it shall become known to any warden or prison, probation, parole, or police officer or other peace officer that any person charged with or convicted of a felony has been previously convicted within the meaning of said sections nineteen hundred and forty-one or nineteen hundred and forty-two, it shall become his duty forthwith to report the facts to the district attorney of the county. Added L. 1926, c. 457, § 3, eff. July 1, 1926."

* * * Prior convictions logically and in fact have little or nothing to do with proof of the defendant's guilt of a new crime; a man is not guilty of breaking the law merely because he has broken it before; but when the proof shows him to be guilty, then his past acts have much to do with the way he should be treated. The punishment for the second offense is increased because of his apparent persistence in the perpetration of crime and his indifference to the laws which keep society together * * * (p. 460)

Judge Crane in *People v. Sickles*, 156 N. Y. 541, wrote:

* * * the fact of a first conviction does not become material until after the second conviction, and then only for the purpose of enabling the trial judge to impose the proper term of imprisonment. (p. 550)

"Both the Fair Labor Standards Act of 1938 and the Federal Food, Drug, and Cosmetic Act were passed by the 75th Congress on the same day, June 25, 1938. See 52 Stat. 1040 and 1060. Neither Section 16 (a) of the Fair Labor Standards Act (29 USCA § 216 (a)) nor Section 303 (a) of the Federal Food, Drug, and Cosmetic Act (21 USCA § 333 (a)) contains any provision directing the prosecutor to plead a previous offense. Indeed, the trend of legislation is expressly away from any such provision as that in the National Prohibition Act. Section 174 of Title 21 USCA, in providing for increased penalties for narcotics offenders, directs the United States Attorney to inform the Court of a defendant's previous narcotics convictions *after* the conviction at bar is obtained. If there are such previous convictions, the United States Attorney is directed to set them forth in an information. Section 174 of Title 21 was passed in its present form on November 2, 1951, 65 Stat. 767.

"Section 333 (a) of the Federal Food, Drug, and Cosmetic Act does not make a previous conviction an element of the offense. It concerns punishment only. From the rationale of the *Modern Reed & Rattan* case, *supra*, and from fundamental elements of procedural justice, it does not appear that the Government should be criticized for its failure to ask the Grand Jury to include the previous offense as part of its indictment of the current offense or for failure to place before the trial jury the allegation of the prior conviction. Here, the defendant has had its basic rights of due process preserved: (1) It has been heard in the determination of the current offense without the stigma of a prior conviction being put before the trial jury; (2) It has had notice of the prior conviction before pleading to and trial of the current offense; and (3) It has had the opportunity to deny the allegation or information of the prior offense, with a trial available as to that feature if it sought it.

"The procedure followed was approved by the United States Supreme Court in the case of *Graham v. West Virginia*, 224 U. S. 616 (1912). There, the defendant was tried upon an indictment not alleging the previous convictions. He was found guilty. Thereafter, he was tried upon an information in which the issue involved his identity with a person charged with having committed previous crimes. He was found to be the same individual, and under the provisions of the West Virginia law, was thereupon sentenced to life imprisonment. The defendant contended that the procedure was contrary to the provisions of the Fourteenth Amendment. In rejecting this view, Justice Hughes wrote:

* * * While it is familiar practice to set forth in the indictment the fact of prior conviction of another offense, and to submit to the jury the evidence upon that issue together with that relating to the commission of the crime which the indictment charges, still in its nature it is a distinct issue, and it may appropriately be the subject of separate determination. Provision for a separate, and subsequent, determination of his identity with the former convict has not been regarded as a deprivation of any fundamental right. (p. 625)

Nor is there any reason why such a proceeding should not be prosecuted upon an information presented by a competent public officer on his oath of office. There is no occasion for an indictment. To repeat, the inquiry is not into the commission of an offense; as to this, indictment has already been found and the accused convicted. There remains simply the

question as to the fact of previous conviction. And it cannot be contended, that in proceeding by information instead of by indictment there is any violation of the requirement of due process of law. (pp. 626-627)

"There is no direction, implied or expressed, in Section 330 (a) of Title 21 USCA that requires the allegation of a previous conviction in the indictment. In view of the fact that Congress in the National Prohibition Act directed such a prior conviction to be pleaded, this would clearly indicate that Congress did not intend to require such a procedure as that sought by the defendant in this case. Section 333 (a) clearly deals only with punishment.

"It, therefore, appears from the foregoing that:

"(1) There is no requirement under the Federal Rules of Criminal Procedure that the previous conviction be set forth in the indictment;

"(2) The Federal Food, Drug, and Cosmetic Act does not require the use of such procedure;

"(3) Such a practice is prejudicial to the defendant;

"(4) The present trend is toward the method used here by the United States Attorney;

"(5) Due process has been fully observed;

"(6) Modern criminal procedure should permit and does permit the use of the practice here followed where there is no authority that forbids.

"For the reasons as herein set forth, defendant's motion to limit the sentence imposed upon it to that of a first offender was denied."

The corporation made a motion on 8-2-56 for a reduction of the fine. On 8-3-56 the motion was denied.

23352. Pretzels. (F. D. C. No. 39173. S. No. 31-083 M.)

QUANTITY: 230 cartons, 24 bags each, at Columbus, Ohio.

SHIPPED: 6-18-56, from Williamsport, Pa., by Buckeye Pretzel Co.

LABEL IN PART: (Bag) "Buckeye 29¢ Old Fashioned Hard Pretzels."

LIBELED: 7-26-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insect and rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-27-56. Default—destruction.

FLOUR*

23353. Flour. (F. D. C. No. 39157. S. No. 42-644 M.)

QUANTITY: 300 100-lb. bags at Idaho Falls, Idaho, in possession of Midland Elevators.

SHIPPED: 1-9-56, from Salt Lake City, Utah.

LIBELED: 7-9-56, Dist. Idaho; amended 7-25-56.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-3-56. Consent—claimed by Colorado Milling & Elevator Co., trading as Midland Elevators. Segregated, 58 bags denatured for use as animal feed; 20 bags, found stained with an insecticide, destroyed.

MISCELLANEOUS CEREALS

23354. Rice. (F. D. C. No. 39161. S. No. 40-845 M.)

QUANTITY: 11 100-lb. bags at Rapid City, S. Dak.

*See also No. 23390.

SHIPPED: 2-25-55, from Memphis, Tenn.

LIBELED: 7-17-56, Dist. S. Dak.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 8-16-56. Default—destruction.

23355. Wheat. (F. D. C. No. 39175. S. No. 40-663 M.)

QUANTITY: 118,990 lbs. at Minneapolis, Minn.

SHIPPED: 7-12-56, from Geneseo, N. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 7-28-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 9-10-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated, 4,720 lbs. to be used for animal feed.

23356. Wheat. (F. D. C. No. 39183. S. No. 41-058 M.)

QUANTITY: 102,000 lbs. at Minneapolis, Minn.

SHIPPED: 7-18-56, from Strasburg, N. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 8-2-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 8-16-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated, 11,120 lbs. to be used for animal feed.

23357. Wheat. (F. D. C. No. 39171. S. No. 41-052 M.)

QUANTITY: 80,450 lbs. at Minneapolis, Minn.

SHIPPED: 7-5-56, from Lidgerwood, N. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 7-25-56, Dist. Minn.

CHARGE: 402(a) (3)—contained rodent excreta when shipped.

DISPOSITION: 8-3-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated, 12,370 lbs. denatured for use as animal feed.

23358. Wheat. (F. D. C. No. 39151. S. No. 40-940 M.)

QUANTITY: 77,850 lbs. at Minneapolis, Minn.

SHIPPED: 6-7-56, from Osnabrock, N. Dak., by Rasmussen Grain Co.

LIBELED: 6-21-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 6-27-56. Consent—claimed by Marvin Rasmussen, Osnabrock, N. Dak., and denatured for use as animal feed.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

CHOCOLATE AND COCOA

23359. Unsweetened chocolate. (F. D. C. No. 39687. S. No. 48-351 M.)

QUANTITY: 68 cartons, 6 11-lb. slabs each, at Newark, N. J.

SHIPPED: 10-16-56, from New York, N. Y., by General Cocoa Co., Inc.

LABEL IN PART: (Carton) "Chocolatera Industrial C. por A. Puerto Plata Dominican Republic Unsweetened Chocolate Product of Dominican Republic."

LIBELED: 11-14-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained insects, insect webbing, insect excreta, paper fragments, wood fragments, textile fibers, and mold when shipped.

DISPOSITION: 2-18-57. Consent—claimed by General Cocoa Co., Inc. Segregated, 248 lbs. destroyed.

23360. Cocoa. (F. D. C. No. 37877. S. Nos. 2-970 M, 4-613 M, 12-656 M.)

INDICTMENT RETURNED: 12-16-55, Dist. Mass., against Samuel Feinberg, t/a Clinton Chocolate Co., Boston, Mass.

SHIPPED: 12-9-54 and 12-14-54, from Massachusetts to New Hampshire, New Jersey, and New York.

LABEL IN PART: (Bag and drum) "Fairmont Cocoa [or "Pure Cocoa"]" and "North Star Cocoa."

CHARGE: 402 (a) (3)—contained rodent hair fragments and insects parts; 402 (a) (4)—prepared under insanitary conditions; 402 (b) (2)—ground filbert nut shell had been substituted in part for cocoa; 402 (b) (4)—ground filbert nut shell had been added to the article and mixed and packed with it so as to increase its bulk and weight; and 403 (g) (1)—failed to conform to the definition and standard of identity of cocoa since it contained ground filbert nut shell, which is not permitted as an optional ingredient of cocoa in the definition and standard.

PLEA: Guilty.

DISPOSITION: 4-17-56. Defendant fined \$1,500 and sentenced to imprisonment for 2 months on count 1; imposition of sentence on remaining counts suspended and defendant placed on probation for 3 years.

23361. Cocoa beans. (F. D. C. No. 38744. S. No. 36-903 M.)

QUANTITY: 7 140-lb. bags at Brooklyn, N. Y.

SHIPPED: 8-3-55, from outside the United States.

LIBELED: 12-20-55, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-19-56. Consent—claimed by E. Muniz Ferreira & Cia, LTDA., Bahia, Brazil. Segregated, 45 lbs. destroyed.

SIRUP AND SUGAR

23362. Sorghum sirup. (F. D. C. No. 38349. S. No. 14-198 M.)

QUANTITY: 147 cases, 12 4½-lb. cans each, at Springfield, Mo.

SHIPPED: 9-6-55 and 9-7-55, from Commerce, Okla., by Glenn Dawson.

LABEL IN PART: (Can) "Country Sorghum."

LIBELED: 9-30-55, W. Dist. Mo.

CHARGE: 402 (b) (2)—a mixture of sucrose and invert sugar had been substituted in whole or in part for sorghum when shipped; and 403 (a)—the label designation "Sorghum" was false and misleading.

DISPOSITION: 4-4-56. Default—delivered for use of a charitable organization.

23363. Sugar. (F. D. C. No. 39182. S. No. 40-582 M.)

QUANTITY: 300 100-lb. bags at Minneapolis, Minn.

SHIPPED: 7-3-56, from Billings, Mont., by Great Western Sugar Co.

LABEL IN PART: "G W Bevrose A Bottlers Pure Sugar."

LIBELED: 8-2-56, Dist. Minn.

CHARGE: 402 (a) (3)—was unfit for food by reason of off-odor and taste when shipped.

DISPOSITION: 9-5-56. Consent—claimed by Great Western Sugar Co. One bag destroyed; remaining bags re-refined.

DAIRY PRODUCTS

BUTTER

23364. Butter. (F. D. C. No. 39230. S. No. 42-925 M.)

QUANTITY: 35 63-lb. cubes at Quincy, Ill.

SHIPPED: 8-13-56, from various places in Arkansas and Missouri.

LIBELED: On or about 9-11-56, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed substance when shipped.

DISPOSITION: 9-24-56. Consent—claimed by Davis-Cleaver Produce Co., Quincy, Ill., and converted to butter oil.

23365. Butter. (F. D. C. No. 39224. S. No. 33-488 M.)

QUANTITY: 6 66-lb. cubes at Kansas City, Mo.

SHIPPED: 9-10-56, from Omaha, Nebr., by Harding Cream, Div. of Sugar Creek Creamery Co.

LIBELED: 9-19-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained decomposed substance by reason of use of decomposed cream in its manufacture.

DISPOSITION: 10-25-56. Consent—claimed by shipper and converted to butter oil.

23366. Butter. (F. D. C. No. 39227. S. No. 40-675 M.)

QUANTITY: 23 60-lb. boxes at Minneapolis, Minn., consigned to Philadelphia, Pa.

SHIPPED: 8-13-56, from Melrose, Minn., by Melrose Co-op. Creamery.

LABEL IN PART: (Box) "Butter Distributed by C. W. Dunnet & Co. * * * Phila., Pa."

LIBELED: 8-22-56, Dist. Minn.

CHARGE: 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 10-5-56. Consent—claimed by Melrose Co-op. Creamery and reworked into legal butter.

CHEESE

23367. Cheese. (F. D. C. No. 39656. S. No. 52-210 M.)

QUANTITY: 332 cases, 6 loaves each, at New York, N. Y.

SHIPPED: 9-17-56, from Jersey City, N. J., by Seaboard Terminal & Refrigeration Co.

LABEL IN PART: (Carton) "Net Wt. 5 lbs. Village Brand Pasteurized Process American Cheese."

LIBELED: 11-20-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained mites and moldy rind when shipped.

DISPOSITION: 2-15-57. Default—destruction.

FISH AND SHELLFISH

23368. Frozen ocean perch fillets. (F. D. C. No. 39307. S. Nos. 49-776/7 M.)

QUANTITY: 1,170 cases, 12 1-lb. pkgs. each, at Gloucester, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessels "Mary Ann," "Vagabond," and "Golden Dawn" in the Atlantic Ocean and unloaded at Gloucester, Mass., on 6-27-56.

LABEL IN PART: "Frozen Fresh Ocean Perch Fillets" and "Famous Booth Foods Quick Frozen Ocean Perch Tastyloins."

LIBELED: 7-20-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 8-27-56. Default—destruction.

23369. Frozen shrimp. (F. D. C. No. 39177. S. No. 51-655 M.)

QUANTITY: 100 cases, 48 10-oz. pkgs. each, at El Paso, Tex.

SHIPPED: 5-28-56, from Nogales, Ariz., by Penguin Frozen Foods.

LABEL IN PART: (Pkg.) "Net Wt. 10 Oz. Bait Shrimp."

LIBELED: 7-26-56, W. Dist. Tex.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 9-21-56. Default—destruction.

23370. Frozen breaded shrimp. (F. D. C. No. 39139. S. No. 31-818 M.)

QUANTITY: 184 cases, 24 10-oz. cartons each, at Detroit, Mich.

SHIPPED: 3-23-56, from Miami, Fla., by Southcoast Quick Freezing and Packing Co.

LABEL IN PART: (Carton) "Southcoast Frozen Large Fantail Breaded Shrimp."

LIBELED: 6-4-56, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 8-14-56. Default—destruction.

23371. Frozen breaded shrimp. (F. D. C. No. 39152. S. No. 36-379 M.)

QUANTITY: 25 cases, 12½-lb. cartons each, at Detroit, Mich.

SHIPPED: 5-8-56, from Miami, Fla., by Gulf Stream Quick Frozen Foods, Inc.

LABEL IN PART: (Carton) "Gulf Stream * * * Quick Frozen Jumbo Breaded Fantail Shrimp."

LIBELED: 7-3-56, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 8-14-56. Default—destruction.

FRUITS AND VEGETABLES**DRIED FRUIT**

23372. Dried prunes and dried string figs. (F. D. C. No. 39287. S. Nos. 52-826/7 M.)

QUANTITY: 56 cases, 50 lbs. each, of figs, and 384 cases, 30 lbs. each, of prunes, at Passaic, N. J.

SHIPPED: 1-27-56 and 2-2-56, from New York, N. Y., and San Francisco, Calif.

LIBELED: On or about 6-25-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained insects, insect excreta, and insect webbing while held for sale.

DISPOSITION: 7-25-56. Default—destruction.

FRESH FRUIT

23373. Fresh blueberries. (F. D. C. No. 39229. S. No. 58-916 M.)

QUANTITY: 22 crates, 12 pints each, at Philadelphia, Pa.

SHIPPED: 8-9-56, from Winslow, N. J., by Johnson Bros.

LIBELED: 8-10-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained maggots and was decomposed when shipped.

DISPOSITION: 9-5-56. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

23374. Dried black-eyed beans. (F. D. C. No. 39052. S. No. 48-030 M.)

QUANTITY: 80 100-lb. bags at New York, N. Y.

SHIPPED: 2-16-56, from Robbins, Calif., by Bean Growers Association of California.

LIBELED: 5-3-56, S. Dist. N. Y.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a fluorine compound, which is unsafe within the meaning of the Act since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on the article as the result of postharvest treatment has been prescribed by regulations.

DISPOSITION: 9-26-56. Default—destruction.

23375. Dried navy beans and unshelled walnuts. (F. D. C. No. 39110. S. Nos. 40-382/3 M.)

QUANTITY: 47 100-lb. bags of beans and 15 25-lb. bags of walnuts at Stillwater, Minn., in possession of Minnesota Mercantile Co.

SHIPPED: 10-21-55 and 12-1-55, from Elkton, Mich., and Susana, Calif.

LIBELED: 4-14-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-12-56. Default—denatured for use as animal feed.

23376. Dried pink beans. (F. D. C. Nos. 39240, 39241, 39242. S. Nos. 29-194/5 M.)

QUANTITY: 197 100-lb. bags at Mayaguez and Ponce, P. R.

SHIPPED: 2-20-56 and 2-23-56, from San Francisco, Calif., by Sinsheimer & Co.

LIBELED: 5-22-56, Dist. P. R.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a fluorine compound, which is unsafe within the meaning of the Act since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on dry beans as the result of postharvest treatment has been prescribed by regulations.

DISPOSITION: 5-31-56. Consent—claimed by Sutter Basin Growers Cooperative, Knights Landing, Calif. The article was satisfactorily reconditioned by cleaning and polishing with wet and dry sawdust.

23377. Canned mushrooms. (F. D. C. No. 39114. S. No. 36-367 M.)

QUANTITY: 108 cases, 24 cans each, at Detroit, Mich.

SHIPPED: 1-21-56, from Hudson, N. Y., by K-B Products Corp.

LABEL IN PART: (Can) "Knaust's Cavern Brand Sliced Mushrooms * * *
Drained Wgt. 4 Oz. Net Avd."

LIBELED: 4-27-56, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped; and 403 (g) (1)—failed to conform to the definition and standard of identity for canned mushrooms since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: 6-7-56. Default—destruction.

23378. Canned mushrooms. (F. D. C. No. 39248. S. Nos. 43-235/6 M.)

QUANTITY: 31 cases, 24 8-oz. cans each, at Memphis, Tenn.

SHIPPED: Between 1-4-56 and 2-22-56, from Hudson, N. Y., by K-B Products Corp.

LABEL IN PART: (Can) "Knaust's Cavern Brand Pieces And Stems Mushrooms."

LIBELED: 5-22-56, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped; and 403 (g) (1)—failed to conform to the definition and standard of identity for canned mushrooms since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: 6-29-56. Default—destruction.

23379. Canned mushrooms. (F. D. C. No. 39252. S. No. 36-370 M.)

QUANTITY: 14 cases, 24 8-oz. cans each, at Saginaw, Mich.

SHIPPED: 1-21-56, from Catskill, N. Y., by K-B Products Corp.

LABEL IN PART: (Can) "Knaust's Cavern Brand Pieces And Stems Mushrooms."

LIBELED: 5-25-56, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped; and 403 (g) (1)—failed to conform to the definition and standard of identity for canned mushrooms since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: 7-11-56. Default—destruction.

23380. Canned field peas. (F. D. C. No. 39133. S. No. 11-595 M.)

QUANTITY: 28 cases, 6 No. 10 cans each, at Mobile, Ala.

SHIPPED: 2-6-56 and 2-27-56, from Elsa, Tex., by Elsa Canning Co.

LABEL IN PART: (Can) "Ro-Tel Brand Fresh Shelled Field Peas With Snaps."

LIBELED: 5-23-56, S. Dist. Ala.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 6-20-56. Default—destruction.

23381. Canned peas and carrots. (F. D. C. No. 39163. S. Nos. 28-600 M, 28-721 M.)

QUANTITY: 101 cases, 24 1-lb. cans each, at San Francisco, Calif.

SHIPPED: 2-7-56 and 3-23-56, from Springville, Utah, by Eddington Canning Co.

LABEL IN PART: (Can) "Sun Blest * * * Sweet Peas & Carrots."

LIBELED: 7-13-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent hairs when shipped.

DISPOSITION: 11-21-56. Default—destruction.

23382. Pickles. (F. D. C. No. 39136. S. No. 28-616 M.)

QUANTITY: 98 cases, 4 1-gal. jars each, at Honolulu, T. H.

SHIPPED: 5-11-56, from Emeryville, Calif., by Kruger & Son.

LABEL IN PART: (Jar) "Happy Brand Dill Chip Pickles."

LIBELED: 5-25-56, Dist. Hawaii.

CHARGE: 402 (a) (3)—contained insects, insect parts, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 7-11-56. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

23383. Canned tomatoes. (F. D. C. No. 39691. S. No. 49-935 M.)

QUANTITY: 348 cases, 24 1-lb. 12-oz. cans each, at New Bedford, Mass.

SHIPPED: 9-17-56, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Our Value Brand Tomatoes Distributed By Kitchen Products Inc. Chicago, Ill."

LIBELED: 11-15-56, Dist. Mass.

CHARGE: 403 (h) (1)—the quality of the article, when shipped, fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container of the article was less than 50 percent of the weight of the water required to fill the container, and the article contained tomato peel per pound of canned tomatoes in the container which covered an area of more than one square inch; and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: 12-13-56. Consent—claimed by Earle Legates Co., Preston, Md., and relabeled.

23384. Tomato catsup. (F. D. C. No. 38633. S. Nos. 31-839 M, 32-498 M.)

INFORMATION FILED: 7-3-56, E. Dist. Pa., against Delaware Valley Packing Co., a corporation, Bristol, Pa., and Charles Hormby, secretary of the corporation.

SHIPPED: 9-17-55 and 10-10-55, from Pennsylvania to New Jersey.

LABEL IN PART: (Can) "Pemaca Brand Tomato Catsup Contents 7 Lbs. Penn's Manor Incorporated Cornwells Heights, Pa." and "Penn's Manor Tomato Catsup Packed by Delaware Valley Packing Co. Bristol, Pa. Contents 7 Pounds."

CHARGE: 402 (a) (3)—when shipped, a portion contained decomposed tomato material and a portion contained fly eggs and maggots; and 402 (a) (4)—a portion had been prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-10-56. Fine of \$500 against each defendant.

23385. Tomato juice. (F. D. C. No. 39176. S. No. 37-619 M.)

QUANTITY: 2,000 cases, 12 cans each, at Pittsburgh, Pa.

SHIPPED: 6-26-56, from Sheridan, N. Y., by Sheridan Canning Co.

LABEL IN PART: (Can) "Kroger Tomato Juice Contents 1 Qt. 14 Fl. Oz."

LIBELED: 7-27-56, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 9-7-56. Default—destruction.

23386. Tomato juice. (F. D. C. No. 39140. S. No. 46-373 M.)

QUANTITY: 258 cases, 24 1-pt. 2-oz. cans each, at Silver Creek, N. Y.

SHIPPED: 4-10-56, from Philadelphia, Pa. This was a return shipment.

LABEL IN PART: (Can) "Penn Treaty Tomato Juice."

LIBELED: 6-4-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 7-9-56. Default—destruction.

NUTS AND NUT PRODUCTS*

23387. Cashew nuts. (F. D. C. No. 39122. S. Nos. 41-082/3 M.)

QUANTITY: 201 cases, 2 25-lb. tins each, at St. Paul, Minn.

SHIPPED: 3-12-56 and 3-29-56, from New York, N. Y., by Fisher Nut Co.

LABEL IN PART: (Can) "Scorched wholes WAC NICC New York Product of India Blanched Cashew Kernels" or "SGN-G & D New York SW Scorched Wholes Produce of India Blanched Cashew Kernels."

LIBELED: 5-3-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects, insect webbing, and insect-damaged nuts when shipped.

DISPOSITION: 6-8-56. Consent—claimed by Fisher Nut Co., St. Paul, Minn. Segregated, 450 lbs. destroyed.

23388. Shelled peanuts. (F. D. C. No. 39156. S. No. 33-469 M.)

QUANTITY: 63 100-lb. bags at Lincoln, Nebr.

SHIPPED: 5-18-56, from Abilene, Tex., by King Peanut Co.

LABEL IN PART: "King Quality No. 2 Hand Picked Shelled Spanish Peanuts."

LIBELED: 7-13-56, Dist. Nebr.; amended 8-10-56.

*See also No. 23375.

CHARGE: 402 (a) (3)—contained dirty peanuts and stems and rancid peanuts when shipped.

DISPOSITION: 9-13-56. Default—delivered to Government agencies, for use as animal feed.

23389. Shelled walnuts. (F. D. C. No. 39078. S. No. 40-367 M.)

QUANTITY: 33 55-lb. cases and 7 54-lb. cases at Minneapolis, Minn.

SHIPPED: 2-8-56, from Brooklyn, N. Y., by Lorraine Trading Corp.

LIBELED: 2-29-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insect frass and moldy and rancid walnuts when shipped.

DISPOSITION: 5-10-56. Default—destruction.

23390. Pecan meal and flour. (F. D. C. No. 39172. S. Nos. 37-613/14 M.)

QUANTITY: 2 30-lb. cartons of pecan meal and 15 100-lb. bags of flour at Indiana, Pa., in possession of Greiner Baking Co., Inc.

SHIPPED: 2-1-56 and 3-7-56, from Searcy, Ark., and Indianapolis, Ind.

LIBELED: 7-27-56, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-22-56. Default—destruction.

POULTRY

23391. Dressed poultry. (F. D. C. No. 39024. S. No. 37-275 M.)

QUANTITY: 547 lbs. in 9 crates at New York, N. Y.

SHIPPED: 3-21-56, from Hope Valley, R. I., by Hope Valley Poultry Co., Inc.

LIBELED: 4-12-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained fecal matter, crop material, decomposed birds, and extensively bruised birds; and 402 (a) (5)—contained diseased birds when shipped.

DISPOSITION: 5-7-56. Default—destruction.

23392. Frozen dressed poultry. (F. D. C. No. 38830. S. Nos. 24-421/2 M.)

QUANTITY: 330 60-lb. crates at Los Angeles, Calif.

SHIPPED: 12-23-55, from Athens, Ga., by Colonial Poultry Co. of Georgia.

LIBELED: 1-24-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained decomposed birds when shipped.

DISPOSITION: 3-16-56. Consent—claimed by Warren Hobgood, Cartersville, Ga. Segregated, 5,146 lbs. destroyed.

23393. Frozen dressed poultry. (F. D. C. No. 39111. S. No. 42-846 M.)

QUANTITY: 10,700 lbs. in 114 boxes and 8 barrels at Mammoth Spring, Ark.

SHIPPED: 3-22-56, from Knoxville, Tenn. This was a return shipment.

LIBELED: 4-17-56, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained decomposed birds when shipped.

DISPOSITION: 5-16-56. Consent—claimed by Franz Food Products, Inc., Mammoth Spring, Ark. Segregated, 6,944 lbs. destroyed.

23394. Frozen dressed poultry. (F. D. C. No. 39138. S. No. 24-460 M.)

QUANTITY: 28 50-lb. crates at Los Angeles, Calif.

SHIPPED: 4-20-56, from Tupelo, Miss.

LIBELED: 5-29-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained decomposed birds while held for sale.

DISPOSITION: 6-18-56. Default—destruction.

23395. Dressed turkeys. (F. D. C. No. 38878. S. No. 19-780 M.)

QUANTITY: 46 30-lb. boxes, 54 38-lb. boxes, and 42 51-lb. boxes at Louisville, Ky.

SHIPPED: 12-9-55, from New Salisbury, Ind., by Carl Hendricks Poultry Co.

LIBELED: 12-22-55, W. Dist. Ky.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter and crop material; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-21-56. Consent—claimed by shipper. Segregated, 330 lbs. destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS

23396. Coriander seed. (F. D. C. No. 39121. S. No. 28-492 M.)

QUANTITY: 125 bags, 100 lbs. each, at San Francisco, Calif.

SHIPPED: 2-9-56, from French Morocco.

LIBELED: 5-3-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 7-9-56. Consent—claimed by B. C. Ireland, Inc., San Francisco, Calif. The article was destroyed after an unsuccessful attempt to recondition it.

23397. Sesame seed. (F. D. C. No. 39128. S. No. 15-290 M.)

QUANTITY: 42 bins, containing approximately 2,100 lbs. each, at Fresno, Calif.

SHIPPED: Between 11-21-55 and 1-9-56, from Paris, Tex.

RESULTS OF INVESTIGATION: An inspection of the premises of Lucidi Packing Co., Fowler, Calif., where the article had been stored, revealed the existence of insanitary conditions which would result in contamination of the article.

LIBELED: 5-16-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent excreta and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-29-56. Consent—claimed by I. Charles Lucidi, t/a Lucidi Packing Co., Fowler, Calif. Segregated; 3,522 lbs. released for oil extraction, 1,369 lbs. destroyed, and remainder released as fit for use as food.

23398. Imitation vanilla flavor. (F. D. C. No. 39293. S. No. 46-476 M.)

QUANTITY: 3 cases, 24 8-oz. btls. each, at Wilmington, Del.

SHIPPED: 4-13-56, from Philadelphia, Pa., by Serv-Agen Corp.

LABEL IN PART: (Btl.) "Serv-Agen * * * Imitation Vanilla Flavor."

LIBELED: 7-3-56, Dist. Del.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous and deleterious substance, coumarin, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 8-15-56. Default—destruction.

MISCELLANEOUS FOODS

23399. Eg-O-Do, Spicey Spice, and Dip. (F. D. C. No. 38516. S. Nos. 1-804 M, 12-902 M, 32-769 M.)

INDICTMENT RETURNED: 3-5-56, E. Dist. Pa., against Herbert Kane, t/a Brokay Products, Philadelphia, Pa.

SHIPPED: Between 2-15-55 and 9-9-55, from Pennsylvania to Delaware, New Jersey, and Virginia.

LABEL IN PART: (Drum) "Brokay Eg-O-Do Net Wt. 250 lbs. Contains: Soya Flour, Egg Yolk, Skim Milk Powder, Lecithinated, Shortening, Cereal, Salt and Baking Powder, Egg Albumen, Certified Color Added," "Brokay Spicey Spice * * * Contents: Spices, Sugar, Vegetable Oil, Essential Oils, Cereals and Vanillin Net Weight: 100 Lbs.," and " 'Perfect' Fried Foods with Brokay Instant 'Dip' 10 Lbs. Net Weight * * * Contents: Egg Yolk, Milk Powder, Lecithin, Carotene, Vitamin A, Starch and Flour."

CHARGE: 402 (a) (3)—contained insects and insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-13-56. \$600 fine; jail sentence for 1 year suspended and defendant placed on probation for 5 years.

23400. Cheese and butter mineral. (F. D. C. No. 39147. S. No. 40-987 M.)

QUANTITY: 11 drums at Paynesville, Minn.

SHIPPED: 4-26-56, from Neenah, Wis., by Alferi's Laboratories, Inc.

LABEL IN PART: (Drum) "Alferi's Cheese and Butter Mineral * * * Net Weight 110 * * * Contents: Sodium Chloride, Potassium Nitrate, Bicarbonate of Soda."

LIBELED: 6-15-56, Dist. Minn.

CHARGE: 403 (a)—the name "Cheese and Butter Mineral" was false and misleading since it represented and suggested that the article was suitable for use in the manufacture of cheese and butter, but it failed to reveal the material fact that the addition of the article to cheese and butter would render those foods in violation of the Federal Food, Drug, and Cosmetic Act.

DISPOSITION: 8-6-56. Default—destruction.

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¹ (23351) Prosecution contested. Contains opinion of the court.

| | N. J. No. | | N. J. No. |
|---|--------------------------|---|--------------------|
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¹ (23351) Prosecution contested. Contains opinion of the court.

| | N. J. No. | | N. J. No. |
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¹(23351) Prosecution contested. Contains opinion of the court.

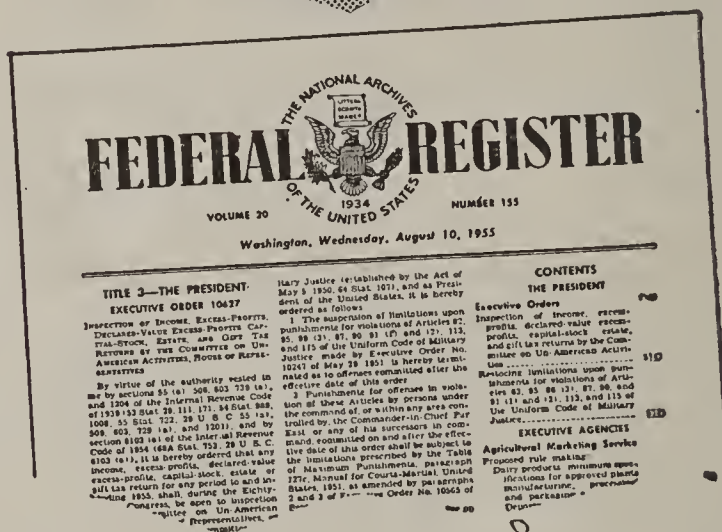
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